IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT/APPELLANT:	David N. Harris
SERIAL NO.:	09/617,361
FILING DATE:	July 17, 2000
TITLE:	SYSTEM AND METHOD FOR VERIFYING COMMERCIAL TRANSACTIONS
EXAMINER:	Raquel Alvarez
ART UNIT:	3688
CONFIRMATION NO.:	8110

CERTIFICATE OF MAILING

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Date: September 5, 2008 Name: /Larry E. Henneman, Jr./
Larry E. Henneman, Jr.

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APPEAL BRIEF AND NOTICE

Dear Sir:

This paper is in support of a notice to appeal filed herewith, which is in response to the final office action mailed on March 7, 2008. A two-month extension of time is included herewith, extending the deadline for the notice of appeal until August 7, 2008.

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REAL PARTY IN INTEREST
(37 C.F.R. § 41.37(c)(1)(i))

Appellant in the present appeal is David N. Harris who is the sole named inventor of U.S. patent application 09/617,361 (the '361 Application). The '361 Application has not been assigned.

RELATED APPEALS AND INTERFERENCES
(37 C.F.R. § 41.37(c)(1)(ii))

Appellant and his undersigned representative are unaware of any related appeals, interferences, or judicial appearances that are concluded, ongoing, or otherwise prospective as of the date of submission of this APPEAL BRIEF.

STATUS OF CLAIMS
(37 C.F.R. § 41.37(c)(1)(iii))

Claims 60-118 are pending. Claims 1-59 are canceled. Claims 60-117 stand rejected. Claim 114 is objected to and claim 118 has not been addressed by the Examiner in the Final Office Action mailed on March 7, 2008. Accordingly, claim 118 has not been rejected, objected to, confirmed, or allowed.

Appellant has elected to appeal the rejections of independent claims 60, 75, 105, 106, 107, 109, 117, and 118 (if rejected) as well as dependent claims 61-74, 76-104, 108, 110-116. This election should not be construed as a concurrence as to the basis for the rejection for any other claim of the application on appeal.

STATUS OF AMENDMENTS
(37 C.F.R. § 41.37(c)(1)(iv))

As filed on July 17, 2000, the '361 Application included 48 total claims; claims 1 and 17 were independent. A non-final office action mailed July 7, 2003, indicated the pendency of claims 1-48 and rejected all claims. In a response dated December 8, 2003, claims 1, 8, 16, 17, 24, and 32 were amended, claims 13, 29, and 45 were canceled, and claims 49-54 were added.

A final action mailed March 25, 2004 indicated the pendency of claims 1-12, 14-28, 30-44, and 46-53 (but not claim 54) and noted "Applicants' arguments filed on 12/15/03" (March 25, 2004 *FINAL OFFICE ACTION*, p. 9). Examiner had no rejection of claim 54 within the March 25, 2004 final office action. In response, a Notice of Appeal and Amendment After Final were both filed on June 24, 2004. In the Amendment After Final, claims 1-12, 14-28, 30-44, and 46-54 were identified as pending and claim 8 was amended. An advisory action mailed July 29, 2004 indicated that the Amendment After Final was "considered but [did] NOT place the application in condition for allowance." (July 29, 2004 *ADVISORY ACTION*, p. 1). Applicant submitted a Request for Continued Examination on November 23, 2004. In the Request for Continued Examination, claims 16 and 32 were amended.

On February 28, 2005, the Examiner issued a non-final office action indicating the pendency of claims 1-12, 14-28, 30-44, and 46-54 and noting that "Applicant's arguments filed 11/15/2004 have been fully considered" (February 28, 2005 *OFFICE ACTION*, p. 8); that submission was inclusive of the November 23, 2004 amendments. Applicant filed a Response on August 29, 2005 requesting reconsideration of the pending claims; no claims were amended or canceled. On November 16, 2005, the Examiner issued a non-final office action indicating the pendency of claims 1-12, 14-28, 30-44, and 46-54 and noting that "Applicant's arguments have been considered" (November 16, 2005 *OFFICE ACTION*, p. 6).

Applicant filed a Response on April 17, 2006 requesting reconsideration of the pending claims; no claims were amended or canceled. After an Examiner interview on June 22, 2006, Applicant filed a Supplemental Response amending claims 1, 2, 4, 6-8, 10, 12, 14-15, 17-18, 20, 22-24, 26, 28, 30-31, 50, and 53, adding new claims 55-59, and cancelling claims 16, 32, 48, 49,

51 and 52. On August 30, 2006, the Examiner issued a final office action rejecting all pending claims including claims 1-12, 14, 15, 17-28, 30, 31, 50, and 53-59. Further, the Examiner noted that "Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection" (August 30, 2006 *FINAL OFFICE ACTION*, p. 4).

On February 28, 2007, Applicant filed a Request for Continued Examination cancelling claims 1-59 and adding new claims 60-113. On April 17, 2007, Applicant filed a supplemental amendment amending claim 60. The Examiner issued a Requirement for Restriction/Election on April 17, 2007, however, within an Examiner Interview Summary Record mailed July 6, 2007, the Examiner indicated that "[t]he restriction requirement has been withdrawn and therefore claims 60-113 will be examined" (July 6, 2007 *EXAMINER INTERVIEW SUMMARY RECORD*, p. 1).

The Examiner issued a non-final rejection on July 6, 2007 indicating the pendency of claims 60-113 and further indicating that the "Applicant's arguments have been considered" (July 6, 2007 *OFFICE ACTION*, 6). On December 16, 2007, Applicant filed an Amendment amending claims 60, 75, 76, 78, 80-82, 84, 86-89, 111 and 112, and adding new claims 114-118. On March 7, 2008, a final rejection was mailed indicating that claims 60-117 were pending and indicating review of Applicant's previous amendments and new claims (March 7, 2008 *FINAL OFFICE ACTION*, p. 7). New Claim 118 was not addressed by the Examiner in the Final Office Action.

There has been no amendments since the Final Office Action mailed March 7, 2008.

SUMMARY OF CLAIMED SUBJECT MATTER
(37 C.F.R. § 41.37(c)(1)(v))[1]

Independent Claim 60

Claim 60 as presented for appeal recites:

A computer system for verifying a commercial transaction between a user with credit card data and a merchant, said computer system comprising:

a processing unit for processing data and code; and

memory for storing said data and said code, said data and said code including

a merchant communications module operative to facilitate a connection with said merchant for receiving a transaction approval request,

an account-holder communications module operative to facilitate a separate connection with an account-holder associated with said credit card data for said account-holder to verify said transaction approval request, and

an authorization module responsive to a verification indicator switchable by said account holder between at least a first state and a second state, said first state enabling a previously established verification requirement and said second state disabling said previously established verification requirement, said authorization module being operative to cooperate with said account-holder communication module for obtaining account-holder verification of said transaction approval request in response to said verification indicator being in said first state; said authorization module being further operative to automatically verify said transaction approval request without obtaining verification from said account holder in response to said verification indicator being in said second state, said authorization module being responsive to receipt of said transaction approval request and operative to transmit an approval to said merchant if said transaction approval request is verified.

[1] All references to the Specification As Filed are exemplary and are not intended to be limiting. The present references are made solely to satisfy the requirements of 37 C.F.R. § 41.37(c)(1)(v). No reference is intended-nor should it be construed- as an admission or denial as to any requirement for patentability, including but not limited to those requirements set forth in 35 U.S.C. § 112, ¶ 1 as they pertain to written description and enablement.

See *Infra* CLAIMS APPENDIX, p. 49.

Figure 2 of the '361 Application (and reproduced below) "is a block diagram showing a server of the credit card company… to include a working memory and an authorization module with said working memory" (SPECIFICATION AS FILED, p. 9).

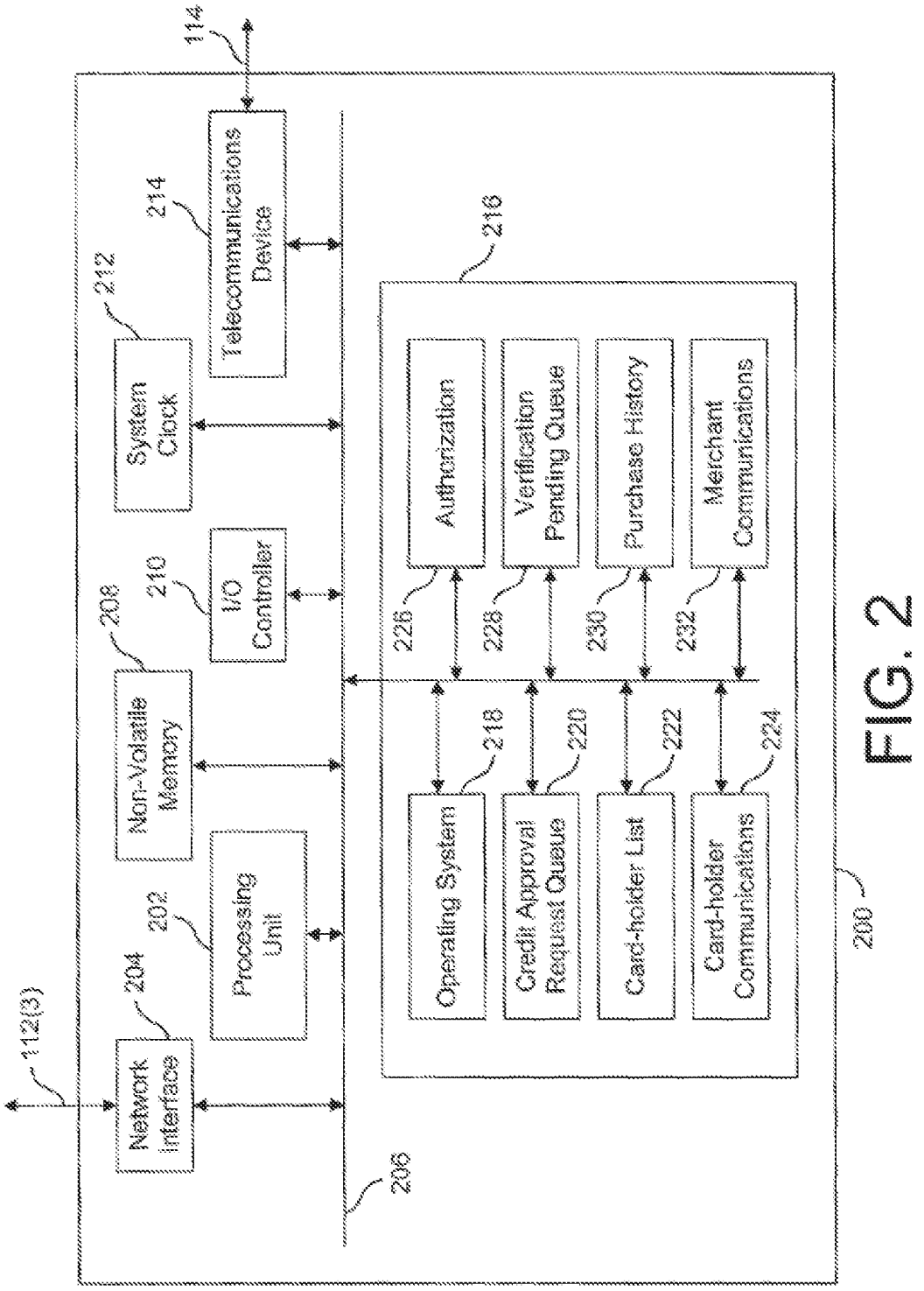


FIG. 2

Independent claim 60 claims a computer system (SPECIFICATION AS FILED, p. 5 lines 8-10, p. 11 line 19- p. 13 line 9, and element 200 in Fig. 2) for verifying a commercial transaction

between a user with credit card data and a merchant (SPECIFICATION AS FILED, p. 14 lines 1-10, element 104 of Fig. 1) that includes a processing unit (SPECIFICATION AS FILED, p. 7 lines 14-21, p. 11 line 7- p. 12 line 4, element 202 in Fig. 2) for processing data and code and memory (SPECIFICATION AS FILED, p. 11, lines 22- p. 12 line 4, p. 12, line 24- p. 13, line 9, element 216 in Fig. 2) for storing said data and said code.

The said data and said code include a merchant communications module (SPECIFICATION AS FILED, p. 13 lines 1-9, element 232 of Figure 2), an account-holder communications module (SPECIFICATION AS FILED, p. 13 lines 1-9, element 224 of Figure 2), and an authorization module (SPECIFICATION AS FILED, p. 13 lines 1-9, element 226 of Figure 2). The merchant communications module is operative to facilitate a connection with said merchant for receiving a transaction approval request (SPECIFICATION AS FILED, p. 14 lines 1-2, p. 18 lines 16-17, p. 24 lines 19-21). The account holder communications module is operative to facilitate a separate connection with an account-holder associated with said credit card data for said account-holder to verify said transaction approval request (SPECIFICATION AS FILED, p. 5 lines 12-13, p. 14 lines 2-4, p. 22 lines 5-10). The authorization module is responsive to a verification indicator switchable by said account holder between at least a first state and a second state, said first state enabling a previously established verification requirement, said authorization module being operative to cooperate with said account-holder communication module for obtaining account-holder verification of said transaction approval request in response to said verification indicator being in said first state; said authorization module being further operative to automatically verify said transaction approval request without obtaining verification from said account holder in response to said verification indicator being in said second state, said authorization module being responsive to receipt of said transaction approval request and operative to transmit an approval to said merchant if said transaction approval request is verified (SPECIFICATION AS FILED, p. 6 lines 13-20, p. 13 lines 18-22, p. 19 line 24-p. 20 line 8, p. 21 lines 19-22, p. 24 line 21-p. 25 line 6, p. 26 lines 5-16, p. 28 lines 9-13).

Independent Claim 75

Claim 75 as presented for appeal recites:

In a computer system, a method for verifying a commercial transaction between a user with credit card data and a merchant, said method comprising:

receiving instructions from an account-holder associated with said credit card data to selectively disable a previously enabled verification function;

receiving a transaction approval request from said merchant;

transmitting an approval to said merchant without verifying said transaction approval request with said account-holder responsive to the selectively disabled verification function;

receiving instructions from said account-holder to selectively enable said verification function;

receiving a subsequent transaction approval request from another merchant;

electronically verifying said subsequent transaction approval request with said account-holder, responsive to the selectively enabled verification function, via a communication with said account-holder separate from said communication with said another merchant; and

transmitting an approval to said another merchant only if said subsequent transaction approval request is verified by said account-holder or if said verification function has again been disabled.

See *Infra* CLAIMS APPENDIX, p. 52.

Figure 7 of the '361 Application (and reproduced below) "is a flowchart summarizing one method of providing safe and secure electronic transactions according to the present invention" (SPECIFICATION AS FILED, p. 9).

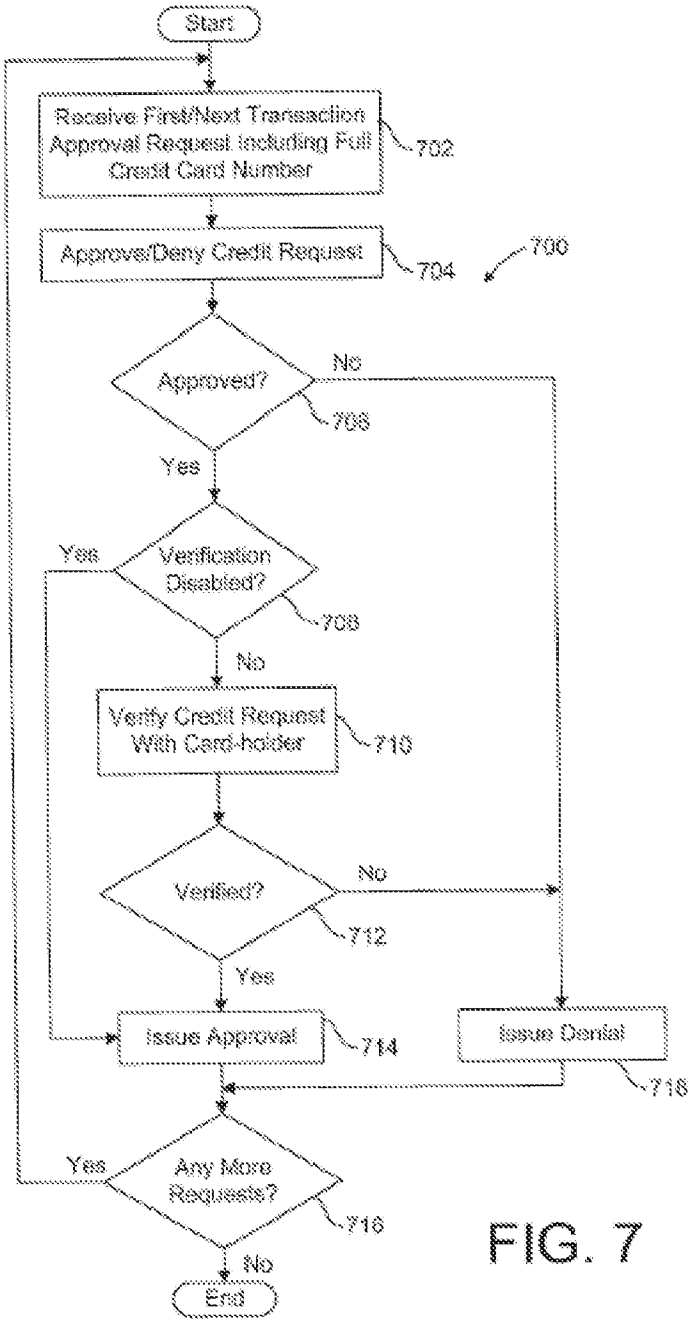


FIG. 7

Independent claim 75 claims in a computer system (SPECIFICATION AS FILED, p. 5 lines 8-10, p. 11 line 19- p. 13 line 9, and element 200 in Fig. 2), a method for verifying a commercial transaction between a user with credit card data and a merchant. Said method comprises receiving instructions from an account-holder associated with said credit card data to selectively

disable a previously enabled verification function (SPECIFICATION AS FILED, p. 6 line 4 & 10-12, p. 7 lines 22-23, p. 13 lines 18-22, p. 23 line 11-p. 24 line 2, p. 25 lines 3-4, p. 26 lines 5-9 & 12-16), receiving a transaction approval request from said merchant (SPECIFICATION AS FILED, p. 14 lines 1-2, p. 24 lines 19-21), transmitting an approval to said merchant without verifying said transaction approval request with said account-holder responsive to the selectively disabled verification function (SPECIFICATION AS FILED, p. 19 lines 9-7, p. 25 lines 14-17), receiving instructions from said account-holder to selectively enable said verification function (SPECIFICATION AS FILED, p. 6 line 4 & 10-12, p. 7 lines 22-23, p. 13 lines 18-22, p. 23 line 11-p. 24 line 2, p. 25 lines 3-4, p. 26 lines 5-9 & 12-16), receiving a subsequent transaction approval request from another merchant (SPECIFICATION AS FILED, p. 14 lines 1-2, , p. 24 lines 19-21), electronically verifying said subsequent transaction approval request with said account-holder, responsive to the selectively enabled verification function, via a communication with said account-holder separate from said communication with said another merchant (SPECIFICATION AS FILED, p. 6 line 22 – p.7 line 3, p. 19 line 23-p.20 line 5, p. 21 lines 5-16, p. 25 lines 3-6, p. 26 lines 5-9), and transmitting an approval to said another merchant only if said subsequent transaction approval request is verified by said account-holder or if said verification function has again been disabled (SPECIFICATION AS FILED, p. 6 line 22 - p. 7 line 3, p. 24, lines 11-17, p. 25 lines 6-9).

Independent Claim 105

Claim 105 as presented for appeal recites:

A computer system for verifying a commercial transaction between a user with credit card data and a merchant, said computer system comprising:

a processing unit for processing data and code;

memory for storing said data and said code, said code including

a merchant communications module operative to facilitate a connection with said merchant for receiving a transaction approval request,

an account-holder communications module operative to facilitate a separate connection with an account-holder associated with said credit card data for said account-holder to verify said transaction approval request, and

an authorization module responsive to receipt of said transaction approval request and operative to transmit an approval to said merchant if said transaction approval request is verified, said authorization module being configurable to cooperate with said account-holder communication module for obtaining account-holder verification of said transaction approval request or to automatically verify said transaction approval request without obtaining verification from said account-holder, said authorization module including an interactive verification module operative to wait for said account-holder to initiate said connection with said account-holder communication module, any prior notification to said account-holder regarding said transaction being disabled.

See *Infra* CLAIMS APPENDIX, pp. 56-57.

Figure 2 of the '361 Application (and reproduced below) "is a block diagram showing a server of the credit card company… to include a working memory and an authorization module with said working memory" (SPECIFICATION AS FILED, p. 9).

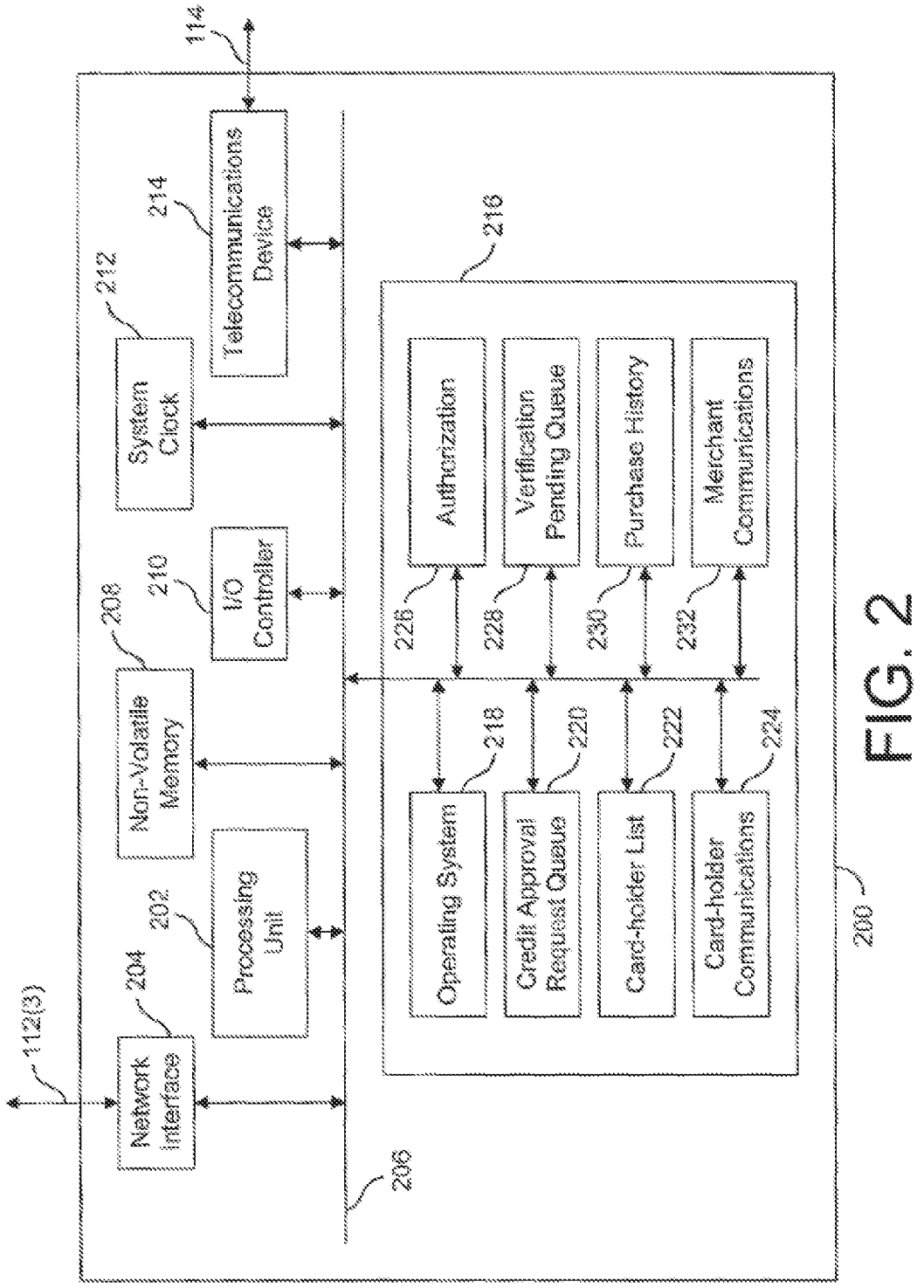


FIG. 2

Independent claim 105 claims a computer system (SPECIFICATION AS FILED, p. 5 lines 8-10, p. 11 line 19- p. 13 line 9, and element 200 in Fig. 2) for verifying a commercial transaction

between a user with credit card data and a merchant (SPECIFICATION AS FILED, p. 14 lines 1-10, element 104 of Fig. 1), said computer system comprising a processing unit (SPECIFICATION AS FILED, p. 7 lines 14-21, p. 11 line 7- p. 12 line 4, element 202 in Fig. 2)for processing data and code and memory for storing said data and said code (SPECIFICATION AS FILED, p. 11 lines 22- p. 12 line 4, p. 12 line 24- p. 13 line 9, element 216 in Fig. 2). Said code including a merchant communications module (SPECIFICATION AS FILED, p. 13 lines 1-9, element 232 of Figure 2), an account-holder communications module (SPECIFICATION AS FILED, p. 13 lines 1-9, element 224 of Figure 2), and an authorization module (SPECIFICATION AS FILED, p. 13 lines 1-9, element 226 of Figure 2). The merchant communications module is operative to facilitate a connection with said merchant for receiving a transaction approval request (SPECIFICATION AS FILED, p. 14 lines 1-2, p. 18 lines 16-17, p. 24 lines 19-21). The account-holder communications module is operative to facilitate a separate connection with an account-holder associated with said credit card data for said account-holder to verify said transaction approval request (SPECIFICATION AS FILED, p. 5 lines 12-13, p. 14 lines 2-4, p. 22 lines 5-10). The authorization module is responsive to receipt of said transaction approval request and operative to transmit an approval to said merchant if said transaction approval request is verified, said authorization module being configurable to cooperate with said account-holder communication module for obtaining account-holder verification of said transaction approval request or to automatically verify said transaction approval request without obtaining verification from said account-holder, said authorization module including an interactive verification module operative to wait for said account-holder to initiate said connection with said account-holder communication module, any prior notification to said account-holder regarding said transaction being disabled (SPECIFICATION AS FILED, p. 6 lines 13-20, p. 7 lines 14-21, p. 13 lines 18-22, p. 19 lines 24-p. 20 line 8, p. 21 lines 19-22, p. 24 line 21-p. 25 line 6, p. 26 line 5-16, p. 28 lines 9-13).

Independent Claim 106

Claim 106 as presented for appeal recites:

A computer system for verifying a commercial transaction between a user with financier data and a retailer, said computer system comprising:

a processing unit for processing data and code;

memory for storing said data and said code, said code including

a financier communications module operative to facilitate a connection with a financier for receiving a verification request related to said commercial transaction,

an account-holder communications module operative to facilitate a connection with an account-holder associated with said financier data for said account-holder to verify said commercial transaction, and

an authorization module configurable to cooperate with said account-holder communication module for obtaining account-holder verification of said commercial transaction or to automatically verify said commercial transaction without obtaining verification from said account-holder, said authorization module being responsive to receipt of said verification request and operative to transmit an approval to said financier if said commercial transaction is verified.

See *Infra* CLAIMS APPENDIX, pp. 57-58.

Figure 1 of the '361 Application (and reproduced below) "is a block diagram of an internetwork between, a card-holder, a merchant, a credit card company, and a third party verification company according to the present invention " (SPECIFICATION AS FILED, p. 9).

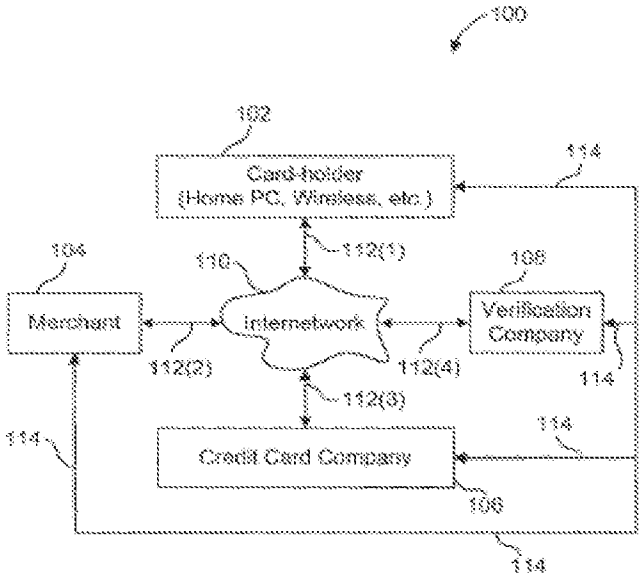


FIG. 1

Figure 2 of the '361 Application (and reproduced below) "is a block diagram showing a server of the credit card company… to include a working memory and an authorization module with said working memory" (SPECIFICATION AS FILED, p. 9).

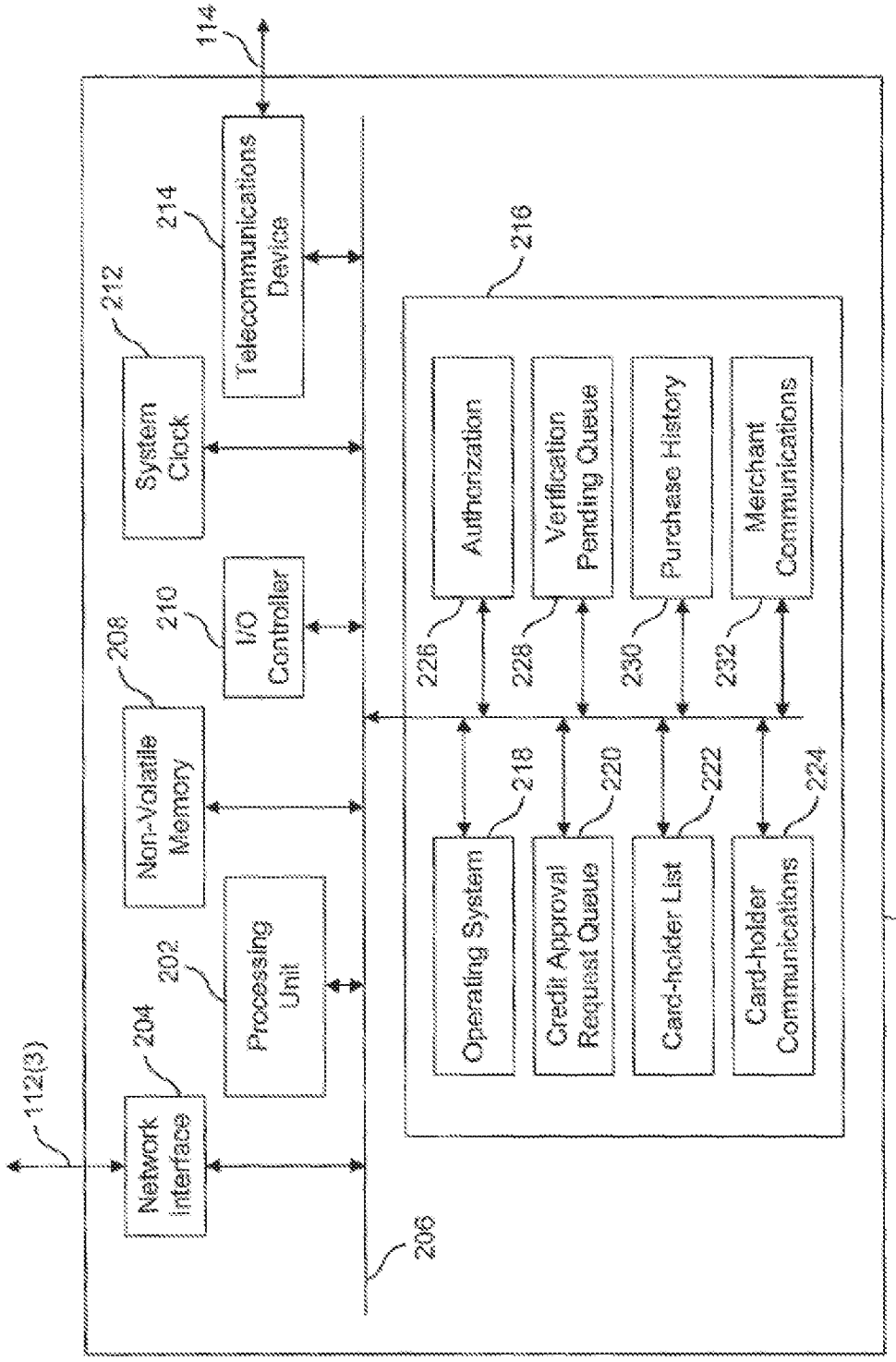

112(3)
Network Interface
204
Processing Unit
202
Non-Volatile Memory
208
I/O Controller
210
System Clock
212
Telecommunications Device
214
114
206
216
Operating System
218
Credit Approval Request Queue
220
Card-holder List
222
Card-holder Communications
224
Authorization
226
Verification Pending Queue
228
Purchase History
230
Merchant Communications
232
200

FIG. 2

Figure 7 of the '361 Application (and reproduced below) "is a flowchart summarizing one method of providing safe and secure electronic transactions according to the present invention" (SPECIFICATION AS FILED, p. 9).

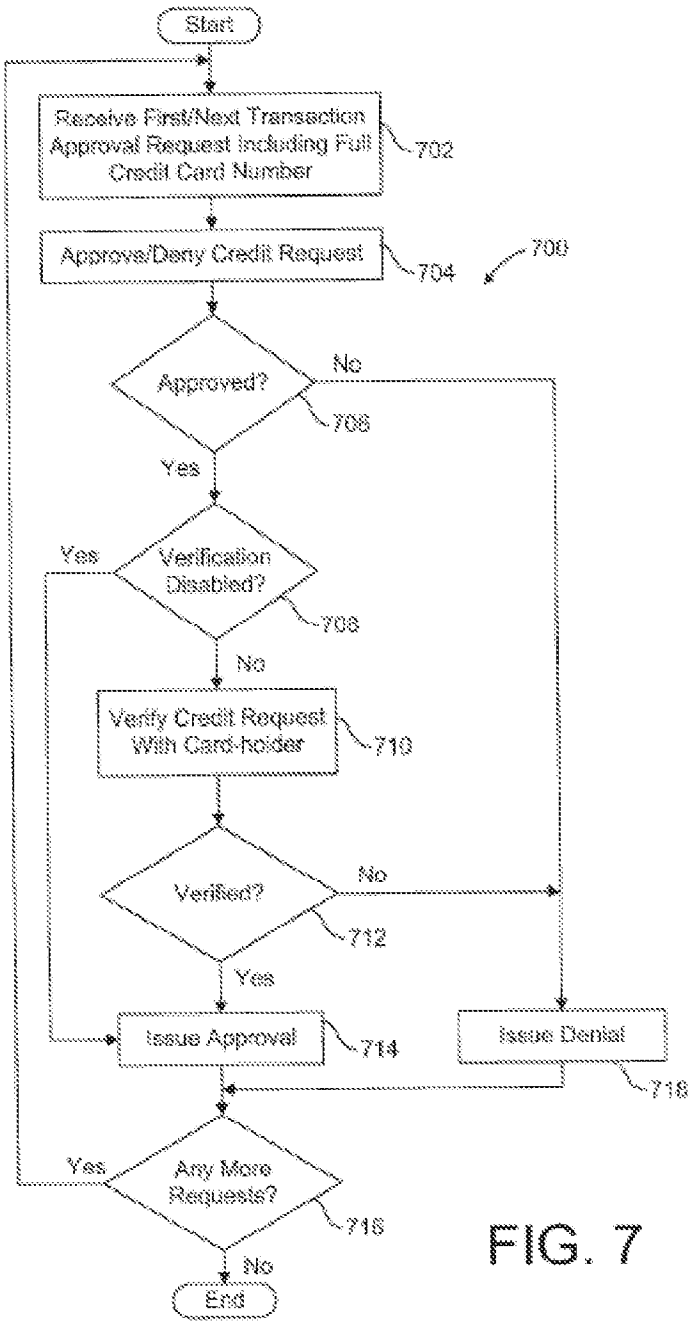


FIG. 7

Figure 9 of the '361 Application (and reproduced below) "is a flowchart summarizing one method of performing the fifth step (card-holder verification) of the method of FIG. 7" (SPECIFICATION AS FILED, p. 9).

FIG. 9

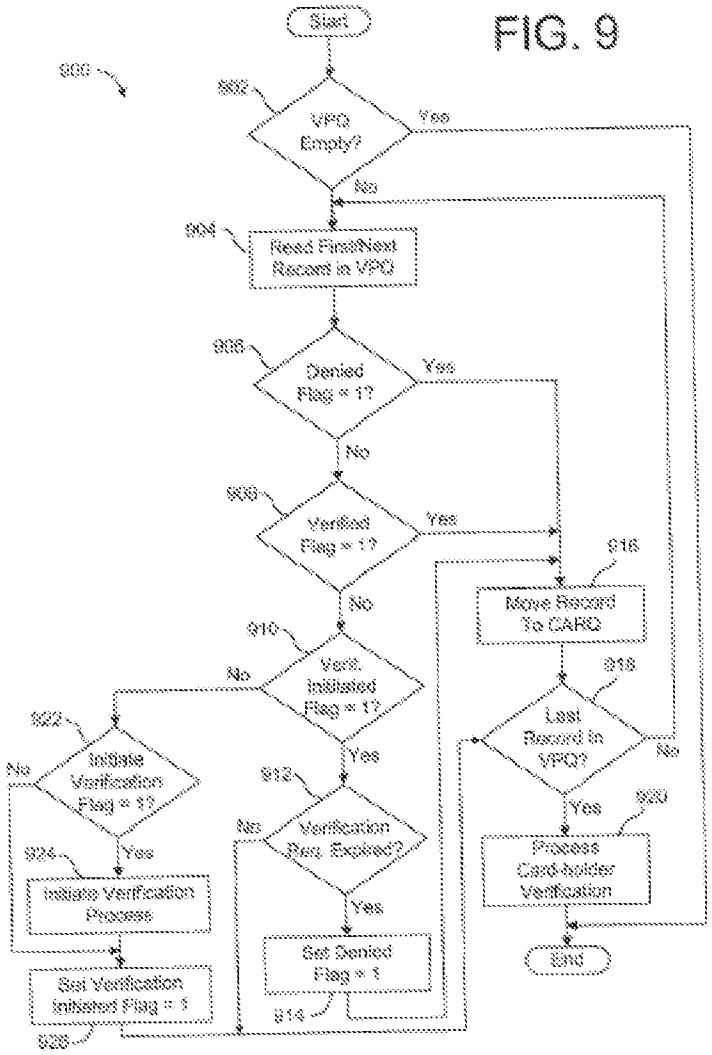
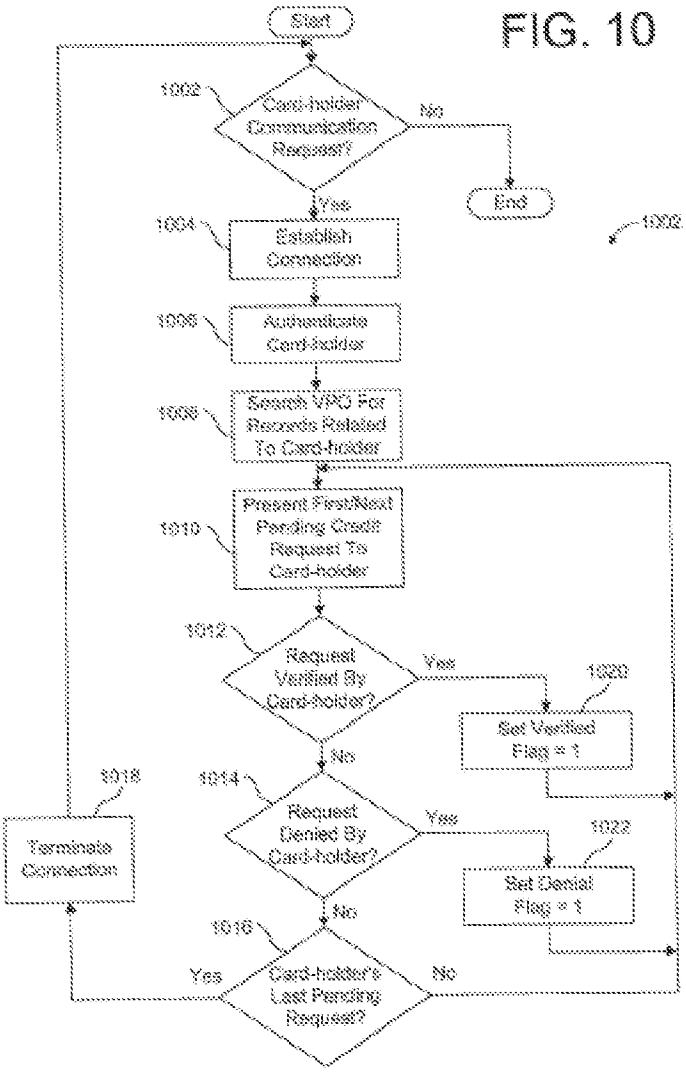


Figure 10 of the '361 Application (and reproduced below) "is a flowchart summarizing an alternate method of performing the fifth step (card-holder verification) of the method of FIG. 7" (SPECIFICATION AS FILED, p. 9).

FIG. 10



Independent claim 106 claims a computer system (SPECIFICATION AS FILED, p. 5 lines 8-10, p. 11 line 19- p. 13 line 9, and element 200 in Fig. 2) for verifying a commercial transaction between a user with financier data and a retailer that includes a processing unit (SPECIFICATION AS FILED, p. 7 lines 14-21, p. 11 line 7- p. 12 line 4, element 202 in Fig. 2) for processing data and code and memory for storing said data and said code (SPECIFICATION AS FILED, p. 11, lines

22- p. 12 line 4, p. 12, line 24- p. 13, line 9, element 216 in Fig. 2). The code includes a financier communications module, an account-holder communications module (SPECIFICATION AS FILED, p. 13 lines 1-9, element 224 of Figure 2), and an authorization module (SPECIFICATION AS FILED, p. 13 lines 1-9, element 226 of Figure 2). The financier communications module is operative to facilitate a connection with a financier for receiving a verification request related to said commercial transaction (SPECIFICATION AS FILED, element 106 of Fig. 1, p. 11 lines 13-18, p. 29 lines 21-23). The account-holder communications module is operative to facilitate a connection with an account-holder associated with said financier data for said account-holder to verify said commercial transaction (SPECIFICATION AS FILED, p. 5 lines 12-13, p. 14 lines 2-4, p. 22 lines 5-10). The authorization module is configurable to cooperate with said account-holder communication module for obtaining account-holder verification of said commercial transaction or to automatically verify said commercial transaction without obtaining verification from said account-holder (SPECIFICATION AS FILED, p. 6 lines 13-20, p. 13 lines 18-22, p. 19 lines 24-p. 20 line 8, p. 21 lines 19-22, p. 24 line 21-p. 25 line 6, p. 26 lines 5-16, p. 28 lines 9-13). The authorization module is responsive to receipt of said verification request and operative to transmit an approval to said financier if said commercial transaction is verified (SPECIFICATION AS FILED, p. 6 lines 18-20, p. 11 lines 13-18, p. 13 lines 11-18, p. 29 lines 21-23).

Independent Claim 107

Claim 107 as presented for appeal recites:

In a computer system, a method for verifying a commercial transaction between a user with credit card data and a merchant, said method comprising:

receiving a transaction approval request from said merchant;

electronically verifying said transaction approval request with an account-holder associated with said credit card data via a communication with said account-holder separate from said communication with said merchant, said electronic verification including disabling any notification to said account-holder and waiting for said account-holder to initiate communication with said computer system;

enabling the account-holder to disable the step of electronically verifying;

automatically verifying the transaction approval request, if the account-holder has disabled the step of electronically verifying; and

transmitting an approval to said merchant if said transaction approval request is verified.

See *Infra* CLAIMS APPENDIX, p. 58.

Figure 7 of the '361 Application (and reproduced below) "is a flowchart summarizing one method of providing safe and secure electronic transactions according to the present invention" (SPECIFICATION AS FILED, p. 9).

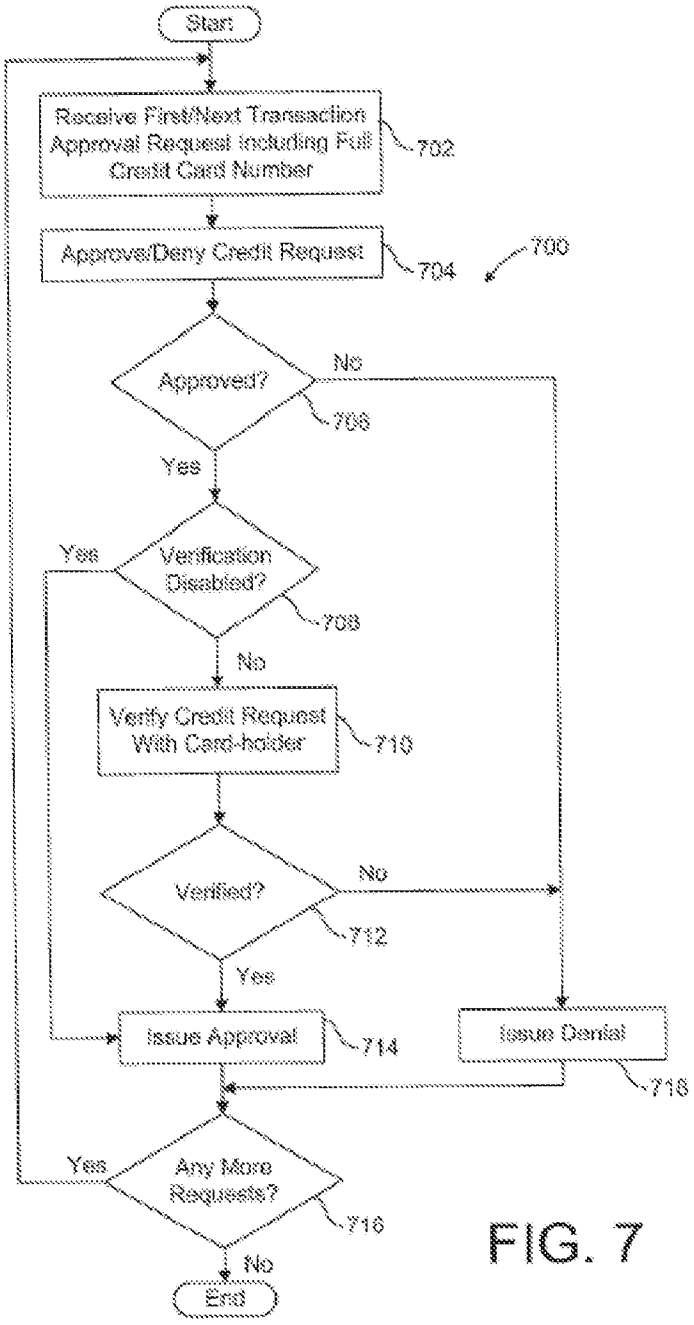


FIG. 7

Independent claim 107 claims in a computer system (SPECIFICATION AS FILED, p. 5 lines 8-10, p. 11 line 19- p. 13 line 9, and element 200 in Fig. 2), a method for verifying a commercial transaction between a user with credit card data and a merchant. Said method comprising receiving a transaction approval request from said merchant (SPECIFICATION AS FILED, p. 14 lines 1-2, p. 24 lines 19-21), electronically verifying said transaction approval request with an

account-holder associated with said credit card data via a communication with said account-holder separate from said communication with said merchant (SPECIFICATION AS FILED, p. 6 line 22 – p.7 line 3, p. 19 line 23-p.20 line 5, p. 21 lines 5-16, p. 25 lines 3-6, p. 26 lines 5-9), said electronic verification including disabling any notification to said account-holder and waiting for said account-holder to initiate communication with said computer system (SPECIFICATION AS FILED, p. 6, lines 6-9, p. 7 lines 14-21), enabling the account-holder to disable the step of electronically verifying (SPECIFICATION AS FILED, p. 6 line 4 & 10-12, p. 7 lines 22-23, p. 13 lines 18-22, p. 23 line 11-p. 24 line 2, p. 25 lines 3-4, p. 26 lines 5-9 & 12-16), automatically verifying the transaction approval request, if the account-holder has disabled the step of electronically verifying, and transmitting an approval to said merchant if said transaction approval request is verified (SPECIFICATION AS FILED, p. 6 line 22 - p. 7 line 3, p. 24, lines 11-17, p. 25 lines 6-9).

Independent Claim 109

Claim 109 as presented for appeal recites:

In a computer system, a method for verifying a commercial transaction between a user with credit card data and a merchant, said method comprising:

receiving a verification request associated with said commercial transaction from a financial institution that approves transactions between account-holders and merchants;

electronically verifying said associated commercial transaction with an account-holder associated with said credit card data;

enabling the user to enable and disable the electronically verifying step; and

transmitting indicia of verification to said financial institution if said associated commercial transaction is verified by said account-holder or if the electronically verifying step is disabled.

See *Infra* CLAIMS APPENDIX, pp. 58-59.

Figure 1 of the '361 Application (and reproduced below) "is a block diagram of an internetwork between, a card-holder, a merchant, a credit card company, and a third party verification company according to the present invention " (SPECIFICATION AS FILED, p. 9).

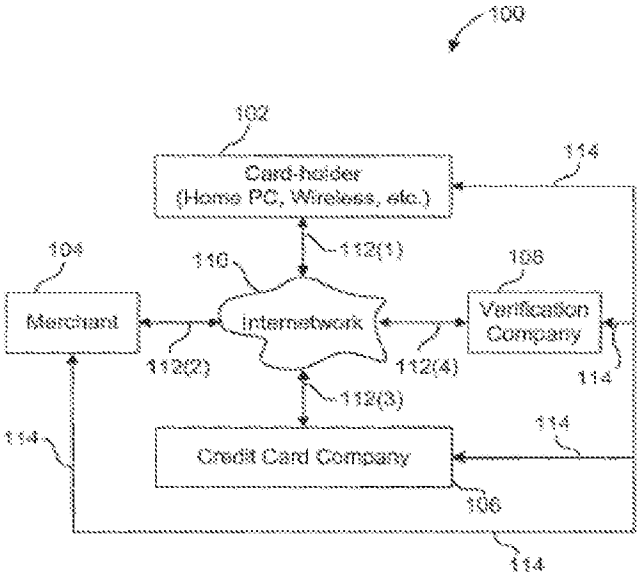


FIG. 1

Figure 2 of the '361 Application (and reproduced below) "is a block diagram showing a server of the credit card company… to include a working memory and an authorization module with said working memory" (SPECIFICATION AS FILED, p. 9).

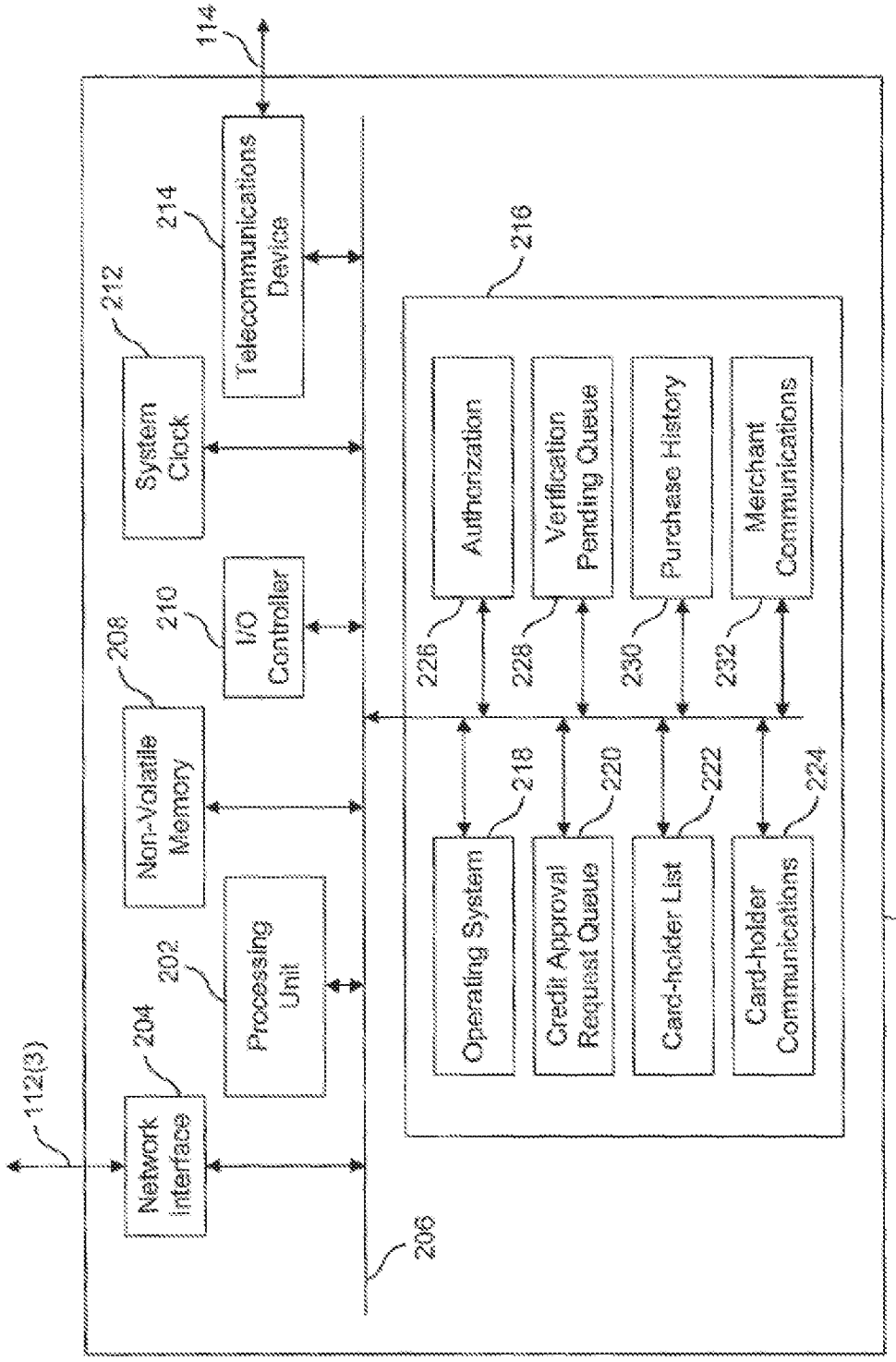

112(3)
Network Interface
204
Processing Unit
202
Non-Volatile Memory
208
I/O Controller
210
System Clock
212
Telecommunications Device
214
114
206
200
216
Operating System
218
Credit Approval Request Queue
220
Card-holder List
222
Card-holder Communications
224
Authorization
226
Verification Pending Queue
228
Purchase History
230
Merchant Communications
232

FIG. 2

Figure 7 of the '361 Application (and reproduced below) "is a flowchart summarizing one method of providing safe and secure electronic transactions according to the present invention" (SPECIFICATION AS FILED, p. 9).

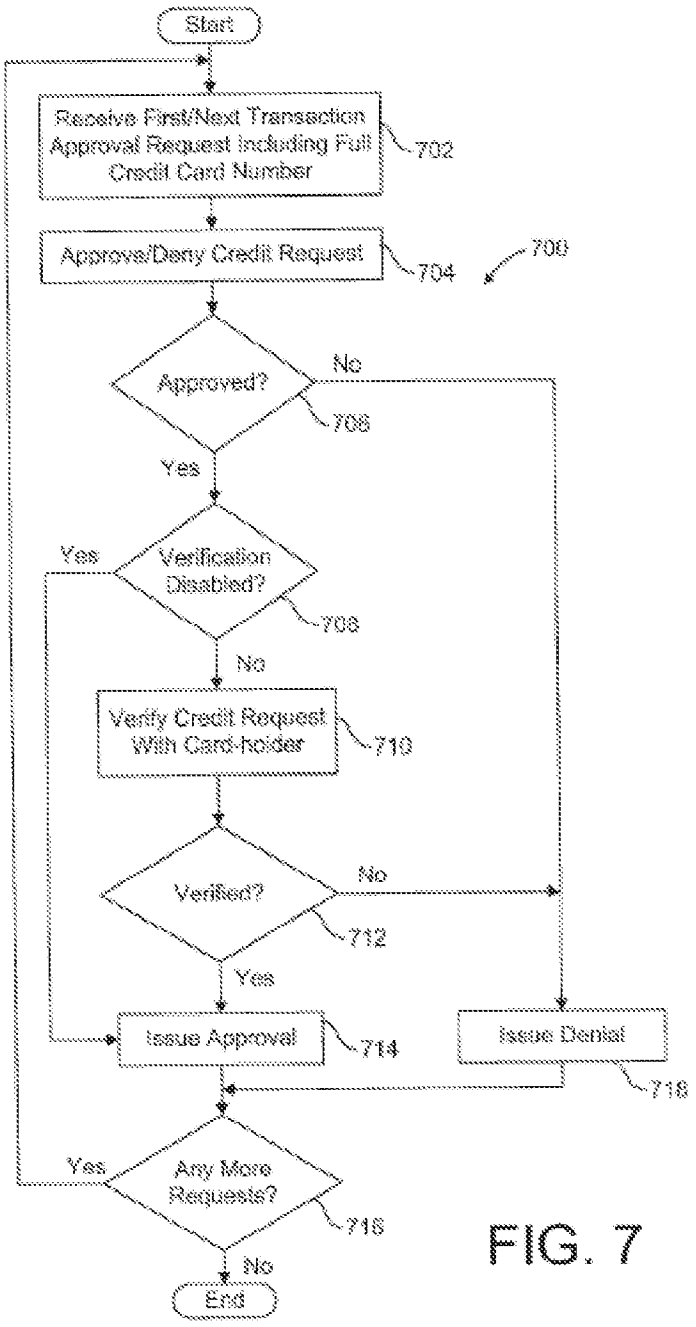


FIG. 7

Figure 9 of the '361 Application (and reproduced below) "is a flowchart summarizing one method of performing the fifth step (card-holder verification) of the method of FIG. 7" (SPECIFICATION AS FILED, p. 9).

FIG. 9

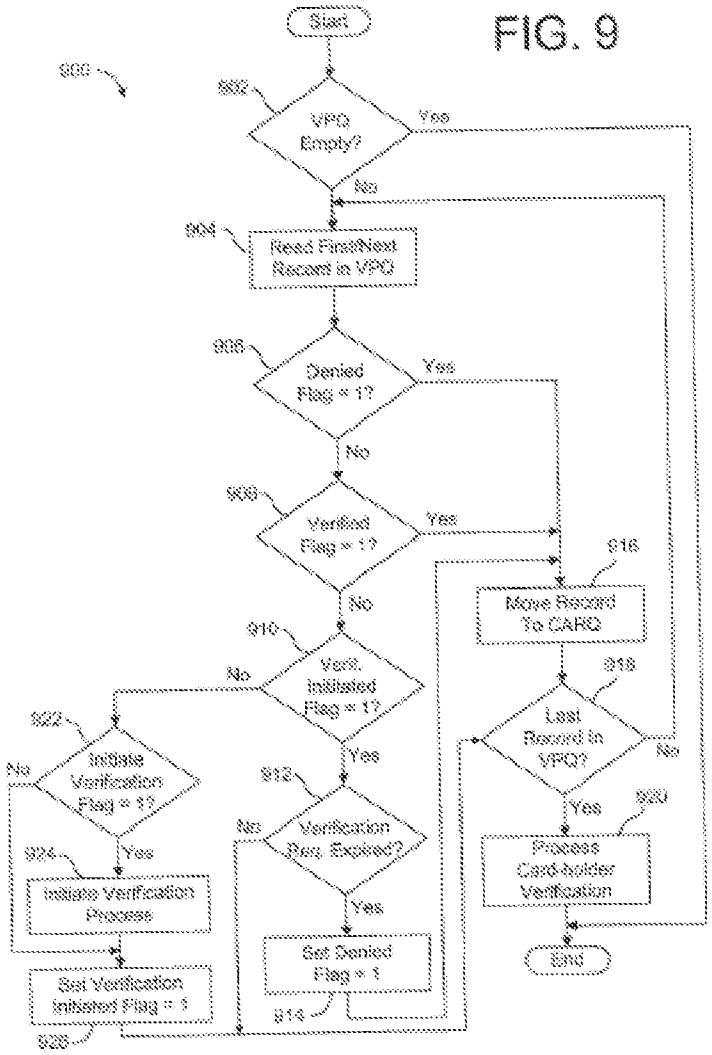
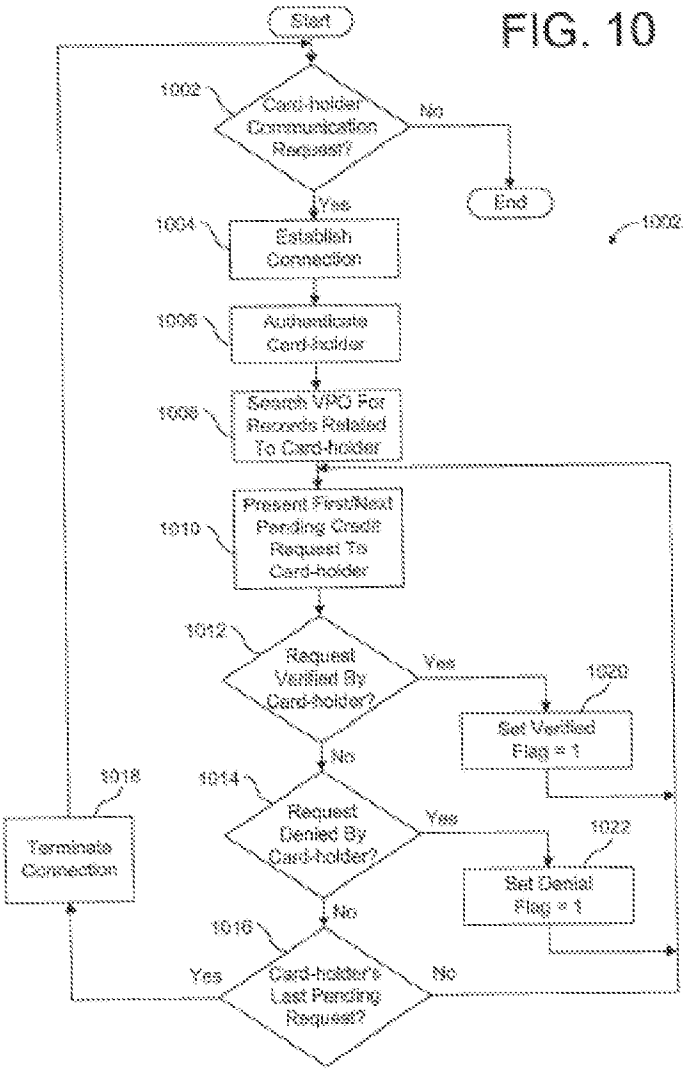


Figure 10 of the '361 Application (and reproduced below) "is a flowchart summarizing an alternate method of performing the fifth step (card-holder verification) of the method of FIG. 7" (SPECIFICATION AS FILED, p. 9).



Independent claim 109 claims in a computer system (SPECIFICATION AS FILED, p. 5 lines 8-10, p. 11 line 19- p. 13 line 9, and element 200 in Fig. 2), a method for verifying a commercial transaction between a user with credit card data and a merchant. The method comprises receiving a verification request associated with said commercial transaction from a financial institution that approves transactions between account-holders and merchants transaction (SPECIFICATION AS FILED, element 108 of Fig. 1, p. 6 lines 18-20, p. 11 lines 13-18, p. 13 lines 11-18, p. 29 lines 21-23), electronically verifying said associated commercial transaction with an account-holder associated with said credit card data (SPECIFICATION AS FILED, p. 5 lines 12-13, p. 14 lines 2-4, p. 22 lines 5-10), enabling the user to enable and disable the electronically verifying step (SPECIFICATION AS FILED, p. 6 lines 4 & 10-12, p. 7 lines 22-23, p. 13 lines 18-22, p. 23 line 11-p. 24 line 2, p. 25 lines 3-4, p. 26 lines 5-9 & 12-16), and transmitting indicia of verification to said financial institution if said associated commercial transaction is verified by said account-holder or if the electronically verifying step is disabled (SPECIFICATION AS FILED, p. 6 lines 13-20, p. 7 lines 14-21, p. 13 lines 18-22, p. 19 lines 24-p. 20 line 8, p. 21 lines 19-22, p. 24 line 21-p. 25 line 6, p. 26 lines 5-16, p. 28 lines 9-13, p. 29 lines 21-23).

Independent Claim 117

Claim 117 as presented for appeal recites:

A computer system for verifying a commercial transaction between a user with credit card data and a merchant, said computer system comprising:

a processing unit for processing data and code; and

memory for storing said data and said code, said data and code including

a merchant communications module operative to facilitate a connection with said merchant for receiving a transaction approval request,

an account-holder communications module operative to facilitate a separate connection with an account-holder associated with said credit card data for said account-holder to verify said transaction approval request and to facilitate the switching of a verification indicator between at least a first state and a second state, and

an authorization module responsive to said verification indicator and operative to cooperate with said account-holder communication module for obtaining account-holder verification of said transaction approval request when said verification indicator is in said first state; said authorization module being further operative to forego verification by said account holder when said verification indicator is in said second state, said authorization module being responsive to receipt of said transaction approval request and operative to transmit an approval to said merchant if said transaction approval request is verified by said account holder or if said verification indicator is in said second state.

See *Infra* CLAIMS APPENDIX, pp. 59-60.

Figure 2 of the '361 Application (and reproduced below) "is a block diagram showing a server of the credit card company… to include a working memory and an authorization module with said working memory" (SPECIFICATION AS FILED, p. 9).

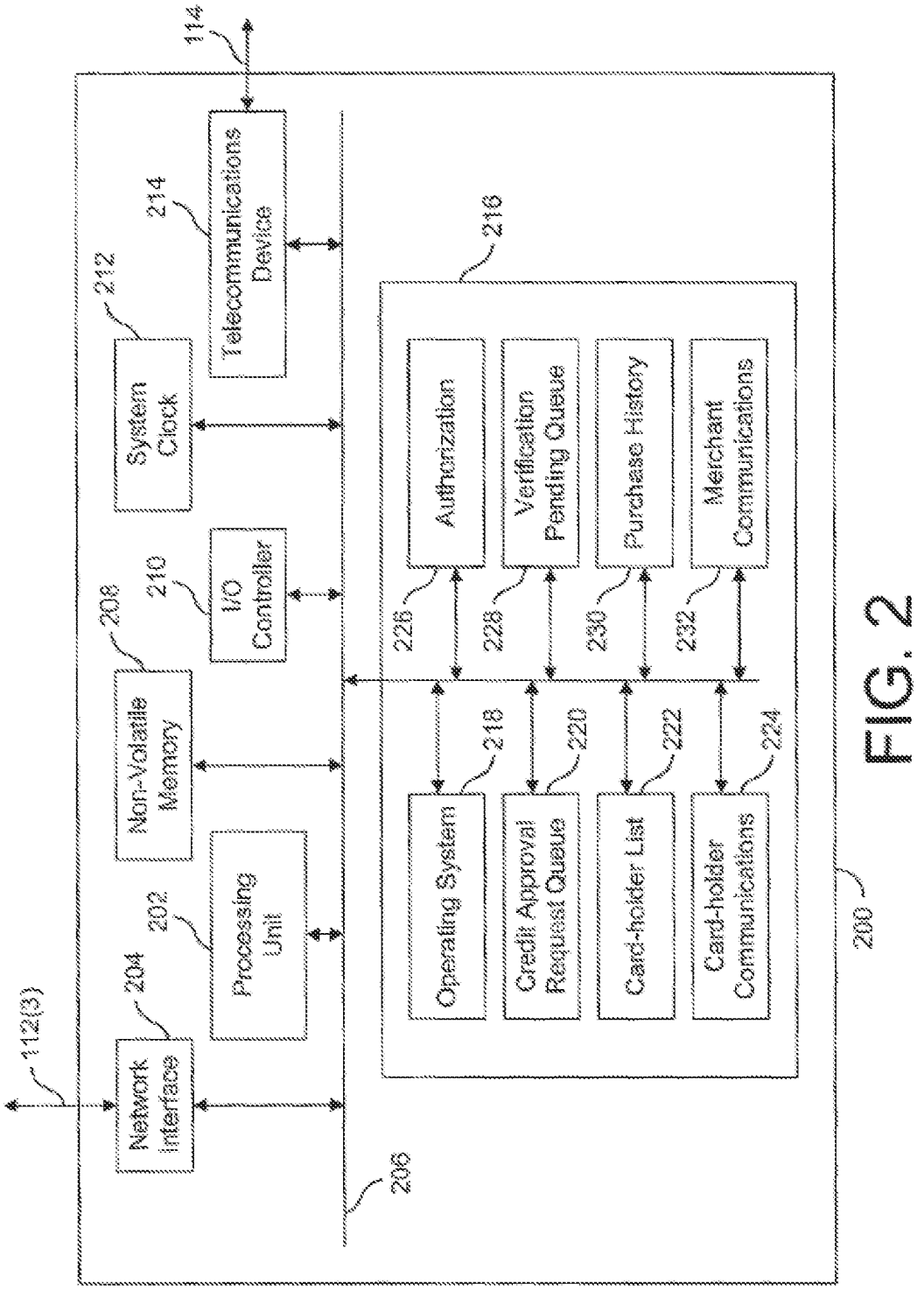


FIG. 2

Independent claim 117 claims a computer system (SPECIFICATION AS FILED, p. 5 lines 8-10, p. 11 line 19- p. 13 line 9, and element 200 in Fig. 2) for verifying a commercial transaction

between a user with credit card data and a merchant (SPECIFICATION AS FILED, p. 14 lines 1-10, element 104 of Fig. 1), said computer system comprising a processing unit (SPECIFICATION AS FILED, p. 7 lines 14-21, p. 11 line 7- p. 12 line 4, element 202 in Fig. 2) for processing data and code and memory for storing said data and said code (SPECIFICATION AS FILED, p. 11 lines 22- p. 12 line 4, p. 12 line 24- p. 13 line 9, element 216 in Fig. 2). Said code including a merchant communications module (SPECIFICATION AS FILED, p. 13 lines 1-9, element 232 of Figure 2), an account-holder communications module (SPECIFICATION AS FILED, p. 13 lines 1-9, element 224 of Figure 2), and an authorization module (SPECIFICATION AS FILED, p. 13 lines 1-9, element 226 of Figure 2). The merchant communications module is operative to facilitate a connection with said merchant for receiving a transaction approval request (SPECIFICATION AS FILED, p. 14 lines 1-2, p. 18 lines 16-17, p. 24 lines 19-21). The account-holder communications module is operative to facilitate a separate connection with an account-holder associated with said credit card data for said account-holder to verify said transaction approval request (SPECIFICATION AS FILED, p. 5 lines 12-13, p. 14 lines 2-4, p. 22 lines 5-10) and to facilitate the switching of a verification indicator between at least a first state and a second state (SPECIFICATION AS FILED, p. 13 lines 11-14, p. 17 lines 4-14). The authorization module is responsive to said verification indicator and operative to cooperate with said account-holder communication module for obtaining account-holder verification of said transaction approval request when said verification indicator is in said first state; said authorization module being further operative to forego verification by said account holder when said verification indicator is in said second state, said authorization module being responsive to receipt of said transaction approval request and operative to transmit an approval to said merchant if said transaction approval request is verified by said account holder or if said verification indicator is in said second state. (SPECIFICATION AS FILED, p. 6 lines 13-20, p. 7 lines 14-21, p. 13 lines 18-22, p. 19 lines 24-p. 20 line 8, p. 21 lines 19-22, p. 24 line 21-p. 25 line 6, p. 26 line 5-16, p. 28 lines 9-13).

Independent Claim 118

Claim 118 as presented for appeal recites:

A computer system for verifying a commercial transaction between a user with credit card data and a merchant, said computer system comprising:

a processing unit for processing data and code; and

memory for storing said data and said code, said data and code including

a merchant communications module operative to facilitate a connection with said merchant for receiving a transaction approval request,

an account-holder communications module operative to facilitate a separate connection with an account-holder associated with said credit card data for said account-holder to verify said transaction approval request and to facilitate the switching of a verification indicator between at least a first state and a second state, wherein said first state enables a previously established verification requirement and switching said verification indicator to said second state disables said previously established verification requirement, and

an authorization module responsive to said verification indicator and operative to cooperate with said account-holder communication module for obtaining account-holder verification of said transaction approval request when said verification indicator is in said first state.

See *Infra* CLAIMS APPENDIX, pp. 60-61.

Figure 2 of the '361 Application (and reproduced below) "is a block diagram showing a server of the credit card company… to include a working memory and an authorization module with said working memory" (SPECIFICATION AS FILED, p. 9).

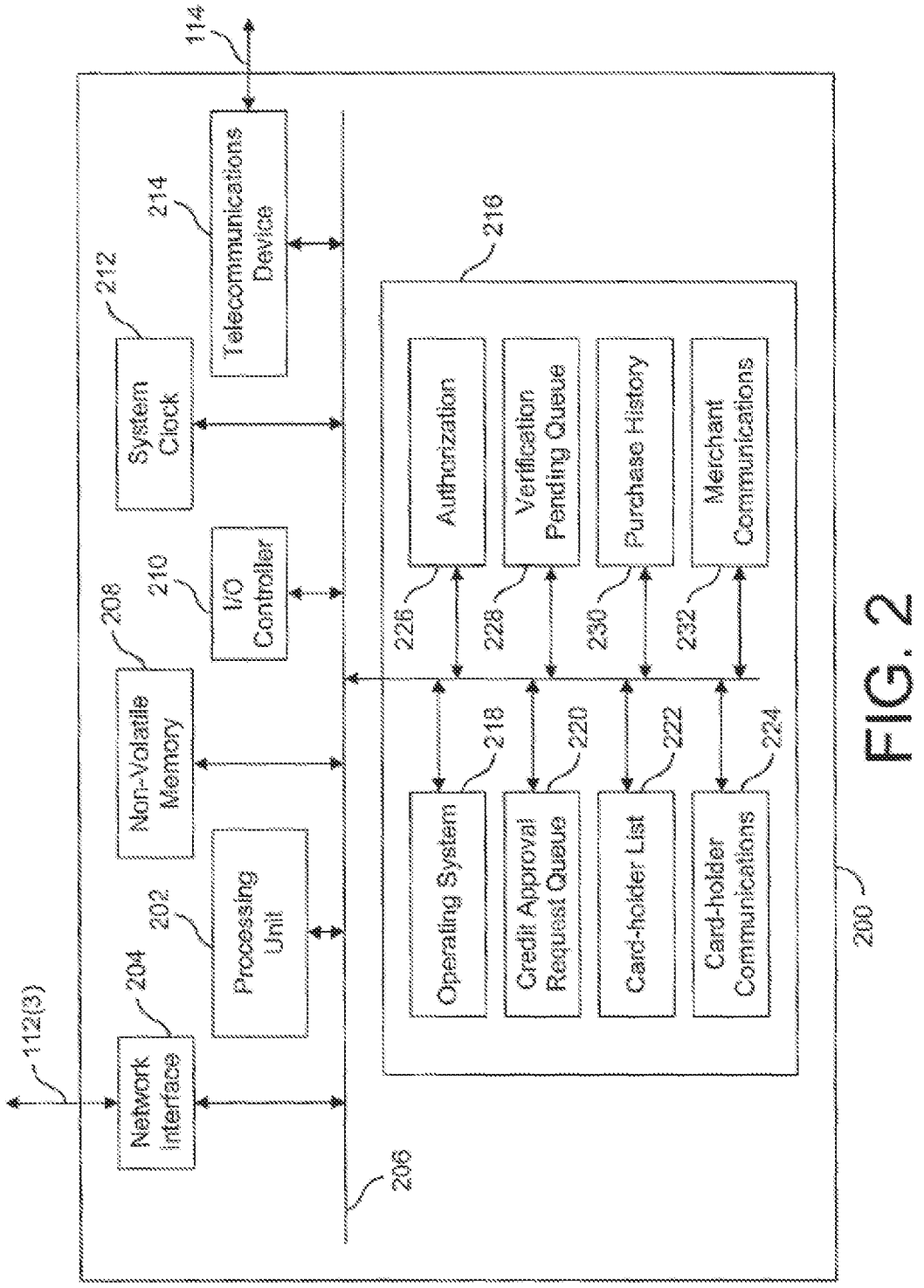


FIG. 2

Independent claim 118 claims a computer system (SPECIFICATION AS FILED, p. 5 lines 8-10, p. 11 line 19- p. 13 line 9, and element 200 in Fig. 2) for verifying a commercial transaction

between a user with credit card data and a merchant (SPECIFICATION AS FILED, p. 14 lines 1-10, element 104 of Fig. 1), said computer system comprising a processing unit (SPECIFICATION AS FILED, p. 7 lines 14-21, p. 11 line 7- p. 12 line 4, element 202 in Fig. 2) for processing data and code and memory for storing said data and said code (SPECIFICATION AS FILED, p. 11 lines 22- p. 12 line 4, p. 12 line 24- p. 13 line 9, element 216 in Fig. 2). Said code including a merchant communications module (SPECIFICATION AS FILED, p. 13 lines 1-9, element 232 of Figure 2), an account-holder communications module (SPECIFICATION AS FILED, p. 13 lines 1-9, element 224 of Figure 2), and an authorization module (SPECIFICATION AS FILED, p. 13 lines 1-9, element 226 of Figure 2). The merchant communications module is operative to facilitate a connection with said merchant for receiving a transaction approval request (SPECIFICATION AS FILED, p. 14 lines 1-2, p. 18 lines 16-17, p. 24 lines 19-21). The account-holder communications module is operative to facilitate a separate connection with an account-holder associated with said credit card data for said account-holder to verify said transaction approval request (SPECIFICATION AS FILED, p. 5 lines 12-13, p. 14 lines 2-4, p. 22 lines 5-10) and to facilitate the switching of a verification indicator between at least a first state and a second state wherein said first state enables a previously established verification requirement and switching said verification indicator to said second state disables said previously established verification requirement (SPECIFICATION AS FILED, p. 13 lines 11-14, p. 17 lines 4-14). The authorization module is responsive to said verification indicator and operative to cooperate with said account-holder communication module for obtaining account-holder verification of said transaction approval request when said verification indicator is in said first state. (SPECIFICATION AS FILED, p. 6 lines 13-20, p. 7 lines 14-21, p. 13 lines 18-22, p. 19 lines 24-p. 20 line 8, p. 21 lines 19-22, p. 24 line 21-p. 25 line 6, p. 26 line 5-16, p. 28 lines 9-13).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

(37 C.F.R. § 41.37(c)(1)(vi))

A. Does Claim 114 fail to comply with the written description requirement pursuant to 35 U.S.C. § 112?

B. Does U.S. Patent 5,708,422 (*Blonder et al.*) anticipate, pursuant to 35 U.S.C. § 102(b), independent claims 60 and 75?

C. Does U.S. Patent 5,708,422 (*Blonder et al.*) anticipate, pursuant to 35 U.S.C. § 102(b), independent claims 105, 106, 107, and 109?

D. Does U.S. Patent 5,708,422 (*Blonder et al.*) anticipate, pursuant to 35 U.S.C. § 102(b), dependent claims 66-71, 73-74, 81-86, 88-89, and 114-115?

ARGUMENT

(37 C.F.R. § 41.37(c)(1)(vii))

A. CLAIM 114 COMPLIES WITH THE WRITTEN DESCRIPTION REQUIREMENT PURSUANT TO 35 U.S.C. § 112

The Examiner stated "Claim 114 recites that the second state authorization module automatically verifies all received transaction approval request without obtaining verification from said account-holder. This is contradictory to claim 60 which claim 114 depends from and which states that in the second state, a transaction must be transmitted and verified" (Final Office Action, p. 2). Appellant assumes that the Examiner intended to refer to the "said authorization module" rather than a "second state authorization module" which is not present in the claim. Contrary to the Examiner's assertions, claim 60 (from which claim 114 depends) does not claim "in the second state, a transaction must be transmitted and verified." Rather, claim 60 claims, in part, that "in response to said verification indicator being in said second state" the "said authorization module [is] further operative to automatically verify said transaction approval request without obtaining verification from said account holder."

Claim 114 is consistent, not contradictory, with claim 60. Claim 114 extends the limitations of claim 60 quoted above by claiming that "wherein responsive to said verification indicator being in said second state said authorization module is operative to automatically verify **all** received transaction approval requests without obtaining verification from said account holder" (emphasis added).

In other words, claim 60 discloses, based on the verification indicator being in the second state, the authorization module operative to automatically verify the transaction approval request discussed in the claim without obtaining verification from the account. Claim 114 extends claim 60 by claiming, given the same conditions required in claim 60, that all received transaction approval requests (not just the one referred to within claim 60) are to be treated in the same way (*i.e.*, automatically verified without obtaining verification from the account holder). Therefore,

Appellant respectfully submits that Claim 114 is not contradictory to claim 60 and requests that the objection be overturned.

B. U.S. PATENT 5,708,422 (*BLONDER ET AL.*) DOES NOT ANTICIPATE, PURSUANT TO 35 U.S.C. § 102(B), INDEPENDENT CLAIMS 60 AND 75

Claim Language of Claims 60 and 75:

Independent claims 60 and 75 both generally claim the function of switching between disabling and enabling a verification function by an account-holder. In particular:

> Claim 60 claims, in part, "an authorization module responsive to a verification indicator switchable by said account holder between at least a first state and a second state, said first state enabling a previously established verification requirement and said second state disabling said previously established verification requirement."

> Claim 75 claims, in part, the steps of "receiving instructions from an account holder… to selectively disable a previously enabled verification function" and "receiving instructions from the account-holder to selectively enable said verification function."

The Examiner's Rejections:

The Examiner rejected claims 60 and 75 stating that "Blonder teaches . . . transmitting an approval to the merchant pursuant to a selectively enabled verification function (col. 3, lines 1-5, col. 10, lines 35-37)." Further, the Examiner stated that "Blonder also teaches … the authorization module is responsive to instructions from the account holder to automatically verify subsequent transaction approval requests without further input from the account holder and instructions for enabling or disabling the electronic verification (col. 5, lines 30-45, col. 7,

lines 1-10, col 14, lines 35-67)" (OFFICE ACTION, JULY 6, 2007; FINAL OFFICE ACTION, MARCH 7, 2004, P. 4).

In order to anticipate a claim, the reference must teach every element of the claim. As discussed in § 2131 of the Manual of Patent Examination Procedure "'[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)."

Regarding Claim 60:

Appellant respectfully submits that none of the passages cited by the Examiner disclose "a verification indicator switchable by said account holder between at least a first state and a second state, said first state enabling a … verification requirement, said second state disabling said … verification requirement" as required by claim 60. In other words, none of the passages cited by the Examiner teach or suggest the account-holder turning the verification function off and on.

Blonder et al. apparently discloses the enablement or disablement of user-defined pre-established conditions that trigger a requirement for card owner authorization. However, Appellant is unable to find within *Blonder et al.* a teaching or suggestion that the card owner may enable or disable the pre-established conditions.

Further, on page 4 of the outstanding Final Office Action, the Examiner stated "[w]ith respect to the… feature of a verification switchable between a first state and a second state… Blonder teaches on Figure 3, that when approval flag is set to 'no' then a permissible maximum transaction can take place without obtaining answer or verification from the account holder, disabling notification to the card holder. Setting the Approval flag to 'yes' the system initiates communication with the cardholder to determine if amount above a certain threshold can be authorized." On page 7 of the same Final Office Action, the Examiner stated "…Blonder teaches on Figure 3, setting the verification/approval flag on and off."

Put differently, based on Figure 3, the Examiner states that *Blonder et al.* teaches setting the approval flag to enable or disable user-defined pre-established conditions for authorization. It is unclear to Appellant, however, how the table of Figure 3 of *Blonder et al.* depicts an account-holder's ability to selectively enable or disable the verification function. There is no indication within Figure 3 of how the cells of the table are populated or even if the table contents can be changed once created. In fact, the table within Figure 3 contains names and credit card numbers of many individuals, which strongly suggests that no single card owner would have access to the table much less have the ability to make changes.

Since *Blonder et al.* does not teach "an authorization module responsive to a verification indicator switchable by said account holder between at least a first state and a second state, said first state enabling a previously established verification requirement and said second state disabling said previously established verification requirement" as required by claim 60, *Blonder et al.* cannot anticipate claim 60. Appellant, therefore, requests that the rejection(s) of claim 60 be overturned.

Regarding Claim 75:

Appellant respectfully submits that none of the passages cited by the Examiner disclose "receiving instructions from an account holder… to selectively disable a previously enabled verification function" and "receiving instructions from the account-holder to selectively enable said verification function" as required by claim 75. In fact, as discussed regarding claim 60, Appellant is unable to find anywhere in *Blonder et al.* a teaching or suggestion that an account holder can enable or disable a verification function.

In rejecting claim 75, the Examiner indicated that Figure 3 anticipates claim 75 in stating "Blonder teaches on Figure 3, that when approval flag is set to 'no' then a permissible maximum transaction can take place without obtaining answer or verification from the account holder, disabling notification to the card holder. Setting the Approval flag to 'yes' the system initiates communication with the cardholder to determine if amount above a certain threshold can be authorized" (Final Office Action mailed March 7, 2008, p. 4).

Again, Appellant is unable to determine how the table of Figure 3 anticipates the method steps of claim 75. In particular, Appellant is unable to determine how the table depicted in Figure 3 is populated or created, much less how Figure 3 teaches "receiving instructions from an account holder… to selectively disable a previously enabled verification function" and, in another step, "receiving instructions from the account-holder to selectively enable said verification function."

Since Figure 3 does not disclose "receiving instructions from an account holder… to selectively disable a previously enabled verification function" and, in another step, "receiving instructions from the account-holder to selectively enable said verification function" as required by claim 75, Appellant respectfully submits that *Blonder et al.* does not anticipate claim 75. Accordingly, Appellant requests that the rejection(s) to claim 75 be overturned.

Summary:

Appellant respectfully submits that *Blonder et al.* fails to teach or discuss each and every element of claims 60 and 75. As such, Appellant requests the rejections of claims 60 and 75, as well as the rejections of claims 61-74, 76-104, 111-112, and 114-116 that depend on claims 60 and 75, be overturned.

C. U.S. PATENT 5,708,422 (*BLONDER ET AL.*) DOES NOT ANTICIPATE, PURSUANT TO 35 U.S.C. § 102(B), INDEPENDENT CLAIMS 105, 106, 107, 109, 117 AND 118

Regarding Claim 105:

The Examiner has not established a *prima facie* case of anticipation. As state above, Applicant added claim 105 within a Request for Continued Examination on February 28, 2007. In the Office Action mailed July 6, 2007, the Examiner rejected claim 105 as anticipated by *Blonder et al.* In the Response to the July 6, 2007 Office Action, Applicant disagreed that *Blonder et al.* anticipated each and every element of claim 105. The Examiner did not respond to Applicant's arguments in the outstanding Final Office Action. Accordingly, Appellant respectfully submits that the Examiner has not established a *prima facie* case of anticipation for rejection of claim 105.

Appellant respectfully points out that *Blonder et al.* does not teach each and every element of claim 105. Claim 105 recites in part "an interactive verification module operative to wait for said account-holder to initiate said connection with said account-holder communication module, any prior notification to said account-holder regarding said transaction being disabled." Appellant is unable to find a teaching within *Blonder et al.* of an account-holder initiating the communication to verify the transaction approval request without prior notification. Rather, *Blonder et al.* discloses, after transmission of an approval request to the card owner (*i.e.*, notification), the "validation database waits for a response from the card owner" (*Blonder et al.*, col. 10, lines 7-13). Further, *Blonder et al.* teaches that if, after notification, a response is not received from the card owner, the transaction may be disapproved. The wait time discussed in *Blonder et al.* begins after the card owner has been notified (*i.e.*, after transmission of the approval request to the card owner). Appellant is unable to find a disclosure within *Blonder et al.* that teaches or discloses waiting for the account-holder to initiate a connection with the account-holder communication module prior to notification.

Appellant respectfully submits that *Blonder et al.* does not anticipate claim 105 because *Blonder et al.* fails to teach or discuss each and every element of the claim. For at least these reasons, as well as the reasons discussed regarding claims 60 and 75, Appellant requests that the rejection of claim 105, as well as the rejections of all claims that depend on claim 105, be overturned.

Regarding Claim 106:

The Examiner has not established a *prima facie* case of anticipation. As state above, Applicant added claim 106 within a Request for Continued Examination on February 28, 2007. In the Office Action mailed July 6, 2007, the Examiner rejected claim 106 as anticipated by *Blonder et al.* In the Response to the July 6, 2007 Office Action, Applicant disagreed that *Blonder et al.* anticipated each and every element of claim 106. The Examiner did not respond to Applicant's arguments in the outstanding Final Office Action. Accordingly, Appellant respectfully submits that the Examiner has not established a *prima facie* case of anticipation for rejection of claim 106.

Further, Appellant respectfully points out that *Blonder et al.* does not teach "a financier communication module operative to facilitate a connection with a financier for receiving a verification request related to said commercial transaction" and "an account-holder communications module … operative to transmit an approval to said financier if said commercial transaction is verified," as recited in claim 106. Here, the system receives a verification request from the financier (e.g., a credit card company), verifies the transaction with the account holder, and transmits an approval to the financier if the commercial transaction is verified by the account holder. *Blonder et al.* discloses requiring separate approval from multiple parties (*e.g.,* two corporate executives) prior to approving a transaction (*Blonder et al.*, col. 11, lines 5-20). In other words, *Blonder et al.* requires, in addition to the card owner, that a third-party approve the transaction and, towards that end, that a request for verification be sent to the third-party. There is no teaching of the financier submitting a verification request to a third-party verification system much less teaching the transmission of an approval from the third-party verification system to the financier if the commercial transaction is verified.

Appellant respectfully submits that *Blonder et al.* does not anticipate claim 106 because *Blonder et al.* fails to teach or discuss each and every element of the claim. For at least these reasons, as well as the reasons discussed regarding claims 60 and 75, Appellant requests that the rejection of claim 106, as well as the rejections of all claims that depend on claim 106, be overturned.

Regarding Claim 107:

The Examiner has not established a *prima facie* case of anticipation. As state above, Applicant added claim 107 within a Request for Continued Examination on February 28, 2007. In the Office Action mailed July 6, 2007, the Examiner rejected claim 107 as anticipated by *Blonder et al.* In the Response to the July 6, 2007 Office Action, Applicant disagreed that *Blonder et al.* anticipated each and every element of claim 107. The Examiner did not respond to Applicant's arguments in the outstanding Final Office Action. Accordingly, Appellant respectfully submits that the Examiner has not established a *prima facie* case of anticipation for rejection of claim 107.

Like claim 75, claim 107 requires in a computer system, a method that allows the account-holder to switch between enabling and disabling the verification function. In particular, claim 107 recites the steps of "enabling the account-holder to disable the step of electronically verifying" and "automatically verifying the transaction approval request, if the account-holder has disabled the step of electronically verifying." Accordingly, the same arguments discussed herein regarding claims 60 and 75 apply.

Further, Appellant respectfully points out that *Blonder et al.* does not teach waiting for an account-holder to initiate communication prior to notification. Claim 107 recites in part "said electronic verification including disabling any notification to said account-holder and waiting for said account-holder to initiate communication with said computer system." As discussed regarding claim 105 *Supra*, Appellant is unable to find a teaching within *Blonder et al.* of an account-holder initiating the communication to verify the transaction approval request without prior notification. As stated above, *Blonder et al.* discloses, after transmission of an approval request to the card owner (*i.e.*, notification), the "validation database waits for a response from the card owner" (*Blonder et al.*, col. 10, lines 7-13). Further, *Blonder et al.* teaches that if, after notification, a response is not received from the card owner, the transaction may be disapproved. The wait time discussed on *Blonder et al.* begins after the card owner has been notified (*i.e.*, after transmission of the approval request to the card owner). Appellant is unable to find a disclosure within *Blonder et al.* that teaches or discloses the account-holder initiating a connection with the account-holder communication module prior to notification.

Appellant respectfully submits that *Blonder et al.* does not anticipate claim 107 because *Blonder et al.* fails to teach or discuss each and every element of the claim. For at least these reasons, as well as the reasons discussed regarding claims 60, 75 and 105, Appellant requests that the rejection of claim 107, as well as the rejections of all claims that depend on claim 107 including claim 108, be overturned.

Regarding Claim 109:

The Examiner has not established a *prima facie* case of anticipation. As state above, Applicant added claim 109 within a Request for Continued Examination on February 28, 2007.

In the Office Action mailed July 6, 2007, the Examiner rejected claim 109 as anticipated by *Blonder et al.* In the Response to the July 6, 2007 Office Action, Applicant disagreed that *Blonder et al.* anticipated each and every element of claim 109. The Examiner did not respond to Applicant's arguments in the outstanding Final Office Action. Accordingly, Appellant respectfully submits that the Examiner has not established a *prima facie* case of anticipation for rejection of claim 109.

Like claim 75, claim 109 requires in a computer system, a method that allows the account-holder to switch between enabling and disabling the verification function. In particular, claim 109 recites the steps of "enabling the user to enable and disable the electronically verifying step." Accordingly, the same arguments discussed herein regarding claims 60 and 75 apply.

Further, Appellant respectfully points out that *Blonder et al.* does not teach "receiving a verification request associated with said commercial transaction from a financial institution that approves transactions between account-holders and merchants" and "transmitting indicia of verification to said financial institution," as recited in claim 109. As discussed with regard to claim 106, *Blonder et al.* discloses requiring separate approval from multiple parties (*e.g.,* two corporate executives) prior to approving a transaction (*Blonder et al.*, col. 11, lines 5-20). In other words, *Blonder et al.* requires that, in addition to the card owner, that a third-party approve the transaction and, towards that end, that a request for verification be sent to the third-party. There is no teaching of the financial institution submitting a verification request to the third party verification system much less a teaching of transmitting "indicia of verification" to the financial institution if the commercial transaction is verified.

Appellant respectfully submits that *Blonder et al.* does not anticipate claim 109 because *Blonder et al.* fails to teach or discuss each and every element of the claim. For at least these reasons, as well as the reasons discussed regarding claims 60 and 75, Appellant requests that the rejection of claim 109, as well as the rejections of all claims that depend on claim 109 including claim 110, be overturned.

Regarding Claim 117:

Like claim 60, claim 117 requires a system that allows an account-holder to switch between enabling and disabling the verification function. In particular, claim 117 recites, in part "an account-holder communication module operative to facilitate a separate connection with an account-holder… to facilitate the switching of a verification indicator between at least a first state and a second state" and "…an authorization module being further operative to forego verification by said account holder when said verification indicator is in said second state." Accordingly, the same arguments discussed herein regarding claims 60 and 75 apply.

Appellant respectfully submits that *Blonder et al.* does not anticipate claim 117 because *Blonder et al.* fails to teach or discuss each and every element of the claim. For at least these reasons, Appellant requests that the rejection of claim 117 be overturned.

Regarding Claim 118:

Like claim 60, claim 118 requires a system that allows an account-holder to switch between enabling and disabling the verification function. In particular, claim 118 recites, in part "an account-holder communication module operative to facilitate a separate connection with an account-holder… to facilitate the switching of a verification indicator between at least a first state and a second state, wherein said first state enables a previously established verification requirement and switching said verification indicator to said second state disables said previously established verification requirement." Accordingly, the same arguments discussed herein regarding claims 60 and 75 apply.

Appellant respectfully submits that *Blonder et al.* does not anticipate claim 118 because *Blonder et al.* fails to teach or discuss each and every element of the claim. For at least these reasons, Appellant requests that the rejection of claim 118 be overturned.

D. U.S. PATENT 5,708,422 (*BLONDER ET AL.*) DOES NOT ANTICIPATE, PURSUANT TO 35 U.S.C. § 102(B), DEPENDENT CLAIMS 66-71, 73-74, 81-86, 88-89, AND 114-115

Regarding Claims 66 and 81:

Claims 66 and 81 indirectly depend from claims 60 and 75, respectively, and require an authentication code from the account-holder "prior to said step of reciting at least a portion of said transaction approval request to said account holder."

Appellant is unable to find a teaching with *Blonder et al.* disclosing an authentication code from the card owner prior to reciting the transaction approval request to the card owner. Rather, *Blonder et al.* discloses a card holder required to match a secret code received from a card owner before the transaction is authorized (*Blonder et al.*, col. 10, lines 37-43). In other words, the card owner is notified of the transaction before providing the secret code. *Blonder et al.* also discloses replacing the card owner authentication process (*i.e.*, not requiring a transaction approval request or transaction approval) by requiring that the card holder acquire a confirmation code "prior to the initiation of the transaction itself" (*Blonder et al.*, col. 14, line 43, see also Figures 13 and 14). In this instance, the card owner provides a confirmation code prior to the transaction, and the card owner need no longer approve the transaction. In either case, *Blonder et al.* does not teach requiring an authentication code from the account-holder prior to reciting the transaction approval request to the account holder in order to receive a transaction approval request as required in dependent claims 66 and 81.

Appellant respectfully submits that *Blonder et al.* does not anticipate claims 66 or 81 because the patent fails to teach each and every element of either claim. For at least these reasons, as well as the reasons discussed regarding claims 60 and 75, Appellant requests that the rejections of claims 66 and 81 be overturned.

Regarding Claims 67 and 82:

Claims 67 and 82 depend directly from claims 60 and 75, respectively, and claim disabling "any notification to said account-holder" and waiting "for said account-holder to

initiate" communication to verify the transaction approval request. Appellant is unable to find such a teaching in *Blonder et al.*

As described with reference to claim 105, Appellant is unable to find a teaching within *Blonder et al.* of an account-holder initiating the communication to verify the transaction approval request without prior notification. Rather, *Blonder et al.* discloses, after transmission of an approval request (*i.e.*, notification), the "validation database waits for a response from the card owner" (*Blonder et al.*, col. 10, lines 7-13). If, after notification, a response is not received from the card owner, the transaction may be disapproved. The wait time discussed on *Blonder et al.* begins after the card owner has been notified (*i.e.*, after transmission of the approval request to the card owner).

Appellant respectfully submits that *Blonder et al.* does not anticipate claims 67 or 82 because the patent fails to teach each and every element of either claim. For at least these reasons, as well as the reasons discussed regarding claims 60, 75 and 105, Appellant requests that the rejections of claims 67 and 82 be overturned.

Regarding Claims 68, 69, 83, and 84:

Claims 68, 69, 83, and 84 depend directly or indirectly upon claims 67 and 82, respectively, and require, in part, that communication be initiated by the account-holder over a network interface. As discussed with regard to claims 67 and 82, Appellant is unable to find any teaching within *Blonder et al.* that discloses any communication initiated by the card owner to verify a transaction approval request prior to notification of the card owner. Accordingly, Appellant points out that *Blonder et al.* fails to teach a communication initiated by the account-holder over a network interface.

Appellant respectfully submits that *Blonder et al.* does not anticipate claims 68, 69, 83, or 84 because the patent fails to teach each and every element of any of the claims. For at least these reasons, as well as the reasons discussed regarding claims 67 and 82, Appellant requests that the rejections of claims 68, 69, 83, and 84 be overturned.

Regarding Claims 70, 71, 85, and 86:

Claims 70, 71, 85, and 86 depend directly or indirectly upon claims 67 and 82, respectively, and require, in part, that the communication be initiated by the account-holder with a telephone call. As discussed with regard to claims 67 and 82, Appellant is unable to find any teaching within *Blonder et al.* that discloses any communication initiated by the card owner to verify a transaction approval request prior to notification of the card owner. Accordingly, Appellant points out that *Blonder et al.* fails to teach a communication initiated by the account-holder with a telephone call.

Appellant respectfully submits that *Blonder et al.* does not anticipate claims 70, 71, 85, or 86 because the patent fails to teach each and every element of any of the claims. For at least these reasons, as well as the reasons discussed regarding claims 67 and 82, Appellant requests that the rejections of claims 70, 71, 85, and 86 be overturned.

Regarding Claims 73 and 88:

Claims 73 and 88 depend from claims 72 and 87, respectively, and claim that a notice is transmitted "to said account-holder when said transaction approval request is disclaimed."

Appellant is unable to find a disclosure within *Blonder et al.* that discusses communicating with the card owner after the card owner has approved or disapproved the transaction. Rather, *Blonder et al.* discloses a system where a card owner may be contacted and requested to approve or disapprove a transaction. Appellant is unable to find a teaching or discussion within *Blonder et al.* that suggests that a notice is transmitted to the card owner after the transaction is disapproved.

Appellant respectfully submits that *Blonder et al.* does not anticipate claims 73 or 88 because the patent fails to teach each and every element of either claim. For at least these reasons, as well as the reasons discussed regarding claims 72 and 87, Appellant requests that the rejections of claims 73 and 88 be overturned.

Regarding Claims 74 and 89:

Claims 74 and 89 depend directly from claims 60 and 75, respectively, and claim that the verification request is transmitted "to a third-party that verifies transaction approval requests with said account-holder" and receiving an "indicia of verification from said third-party indicating whether said account-holder has verified said transaction approval request."

Appellant respectfully points out that Blonder et al. does not contemplate a third-party that verifies requests with the account-holder. As similarly stated above with reference to claims 106 and 109, *Blonder et al.* discloses requiring separate approval from multiple parties (*e.g.,* two corporate executives) prior to approving a transaction (*Blonder et al.*, col. 11, lines 5-20). In this instance, *Blonder et al.* teaches multiple parties that separately verify the transaction but not a third-party that verifies transactions with the card owner much less receiving an "indicia of verification" from such a party.

Appellant respectfully submits that *Blonder et al.* does not anticipate claims 74 and 89 because the patent fails to teach each and every element of either claim. For at least these reasons, as well as the reasons discussed regarding claims 60 and 75, Appellant requests that the rejections of claims 74 and 89 be overturned.

Regarding Claim 114:

Claim 114 depends directly from claim 60 and claims that "wherein responsive to said verification indicator being in said second state said authorization module is operative to automatically verify all received transaction approval requests without obtaining verification from said account holder" (emphasis added). Since claim 114 depends on claim 60, the same arguments discussed herein regarding claims 60 and 75 apply.

Appellant respectfully submits that *Blonder et al.* does not anticipate claim 114 because the patent fails to teach each and every element of the claim. For at least these reasons, Appellant requests that the rejection of claim 114 be overturned.

Regarding Claim 115:

Claim 115 depends on claim 75 and claims that "wherein verification with said account-holder is not required for approval of any transaction approval request when said verification

function is disabled" (emphasis added). Since claim 115 depends on claim 75, the same arguments discussed herein regarding claims 60 and 75 apply.

Appellant respectfully submits that *Blonder et al.* does not anticipate claim 115 because the patent fails to teach each and every element of the claim. For at least these reasons, as well as the reasons discussed regarding claims 60 and 75, Appellant requests that the rejection of claim 115 be overturned.

In light of the prior art's failure to disclose each and every element of the presently claimed invention, anticipation has not been established. As such, Appellant respectfully submits that the Examiner's rejections are overcome. Appellant, therefore, respectfully requests that the final rejection be overturned and the present application remanded with instructions to allow the same.

Respectfully submitted,

Date: September 5, 2008

/Larry E. Henneman, Jr./

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CLAIMS APPENDIX
(37 C.F.R. § 41.37(c)(1)(viii))

60. A computer system for verifying a commercial transaction between a user with credit card data and a merchant, said computer system comprising:

a processing unit for processing data and code; and

memory for storing said data and said code, said data and said code including

a merchant communications module operative to facilitate a connection with said merchant for receiving a transaction approval request,

an account-holder communications module operative to facilitate a separate connection with an account-holder associated with said credit card data for said account-holder to verify said transaction approval request, and

an authorization module responsive to a verification indicator switchable by said account holder between at least a first state and a second state, said first state enabling a previously established verification requirement and said second state disabling said previously established verification requirement, said authorization module being operative to cooperate with said account-holder communication module for obtaining account-holder verification of said transaction approval request in response to said verification indicator being in said first state; said authorization module being further operative to automatically verify said transaction approval request without obtaining verification from said account holder in response to said verification indicator being in said second state, said authorization module being responsive to receipt of said transaction approval request and operative to transmit an approval to said merchant if said transaction approval request is verified.

61. A computer system according to Claim 60, wherein said authorization module includes an interactive verification module responsive to receipt of said transaction approval request and operative to initiate said connection with said account-holder.

62. A computer system according to Claim 61, further comprising a network interface, and wherein said interactive verification module is operative to send an electronic message to said account-holder via said network interface.

63. A computer system according to Claim 62, wherein said interactive verification module is operative to verify said transaction approval request responsive to receiving a reply to said electronic message from said account-holder.

64. A computer system according to Claim 61, further comprising a telecommunications device, and wherein said interactive verification module is operative to place an automated telephone call to said account-holder.

65. A computer system according to Claim 64, wherein said interactive verification module is operative to:

establish a telephone connection with said account holder;

recite at least a portion of said transaction approval request to said account holder; and

receive verification instructions from said account-holder with respect to said transaction approval request.

66. A computer system according to Claim 65, wherein said interactive verification module is further operative to require an authentication code from said account-holder prior to said step of reciting at least a portion of said transaction approval request to said account-holder.

67. A computer system according to Claim 60, wherein:

any notification to said account-holder is disabled; and

said authorization module includes an interactive verification module operative to wait for said account-holder to initiate said separate connection.

68. A computer system according to Claim 67, further comprising a network interface, and wherein said interactive verification module is operative to wait for a communication from said account-holder via said network interface.

69. A computer system according to Claim 67, further comprising a network interface, and wherein said interactive verification module is operative to:

receive a connection request from said account-holder via said network interface;

establish a network connection with said account-holder;

authenticate said account holder;

transmit at least a portion of said approval request to said account holder; and

receive verification instructions from said account-holder with respect to said approval request.

70. A computer system according to Claim 67, further comprising a telecommunications device, and wherein said interactive verification module is operative to wait for a telephone call from said account-holder.

71. A computer system according to Claim 67, further comprising a telecommunications device, and wherein said interactive verification module is operative to:

receive a telephone call from said account-holder;

authenticate said account-holder;

transmit at least a portion of said approval request to said account-holder; and

receive verification instructions from said account-holder with respect to said approval request.

72. A computer system according to Claim 60, wherein said authorization module includes a master verification module responsive to the lapse of a predetermined time period and operative to disclaim said approval request if said approved request has not been verified by said account-holder.

73. A computer system according to Claim 72, wherein said master verification module is further operative to transmit notice to said account-holder when said transaction approval request is disclaimed.

74. A computer system according to Claim 60, wherein said authorization module is further operative to:

transmit a verification request identifying said transaction approval request to a third-party that verifies transaction approval requests with said account-holder; and

receive indicia of verification from said third-party indicating whether said account-holder has verified said transaction approval request.

75. In a computer system, a method for verifying a commercial transaction between a user with credit card data and a merchant, said method comprising:

receiving instructions from an account-holder associated with said credit card data to selectively disable a previously enabled verification function;

receiving a transaction approval request from said merchant;

transmitting an approval to said merchant without verifying said transaction approval request with said account-holder responsive to the selectively disabled verification function;

receiving instructions from said account-holder to selectively enable said verification function;

receiving a subsequent transaction approval request from another merchant;

electronically verifying said subsequent transaction approval request with said account-holder, responsive to the selectively enabled verification function, via a communication with said account-holder separate from said communication with said another merchant; and

transmitting an approval to said another merchant only if said subsequent transaction approval request is verified by said account-holder or if said verification function has again been disabled.

76. A method according to Claim 75, wherein said step of verifying said subsequent transaction approval request with said account-holder includes prompting said account-holder to verify said transaction approval request.

77. A method according to Claim 76, wherein said step of prompting said account-holder includes sending an electronic message to said account-holder.

78. A method according to Claim 77, wherein said step of verifying said subsequent transaction approval request with said account-holder includes receiving a reply to said electronic message.

79. A method according to Claim 76, wherein said step of prompting said account-holder includes placing an automated telephone call to said account-holder.

80. A method according to Claim 79, wherein said step of placing an automated telephone call to said account-holder includes:

establishing a telephone connection with said account-holder;

reciting at least a portion of said subsequent transaction approval request to said accountholder; and

receiving verification instructions from said account-holder with respect to said subsequent transaction approval request.

81. A method according to Claim 80, wherein said step of placing an automated telephone call to said account-holder further includes receiving an authentication code from said account-holder prior to said step of reciting at least a portion of said subsequent transaction approval request to said account holder.

82. A method according to Claim 75, wherein said step of electronically verifying said subsequent transaction approval request with said account-holder includes disabling any notification to said account-holder and waiting for said account-holder to initiate communication with said computer system.

83. A method according to Claim 82, wherein said communication with said computer system is initiated by said account-holder via a network connection.

84. A method according to Claim 82, wherein said step of electronically verifying said subsequent transaction approval request with said account-holder includes:

receiving a connection request from said account-holder via a network;

establishing a network connection with said account-holder;

authenticating said account-holder;

transmitting at least a portion of said subsequent transaction approval request to said account-holder; and

receiving verification instructions from said account-holder with respect to said subsequent transaction approval request.

85. A method according to Claim 82, wherein said communication with said computer system is initiated by said account-holder via a telephone connection.

86. A method according to Claim 82, wherein said step of electronically verifying said subsequent transaction approval request with said account-holder includes:

receiving a telephone call from said account-holder;

authenticating said account-holder;

reciting at least a portion of said subsequent transaction approval request to said account-holder; and

receiving verification instructions from said account-holder with respect to said transaction approval request.

87. A method according to Claim 75, wherein said step of electronically verifying said subsequent transaction approval request with said account-holder includes automatically disclaiming said approval request if said subsequent transaction approval request is not verified by said account-holder within a predetermined time interval.

88. A method according to Claim 87, further comprising transmitting notice to said account-holder when said subsequent transaction approval request is disclaimed.

89. A method according to Claim 75, wherein said step of electronically verifying said subsequent transaction approval request with said account-holder includes:

transmitting it verification request identifying said subsequent transaction approval request to a third-party for verification of said subsequent transaction approval request with said account-holder; and

receiving indicia of verification from said third-party indicating whether said account-holder verified said subsequent transaction approval request.

90. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 75.

91. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 76.

92. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 77.

93. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 78.

94. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 79.

95. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 80.

96. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 81.

97. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 82.

98. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 83.

99. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 84.

100. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 85.

101. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 86.

102. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 88.

103. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 89.

104. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 90.

105. A computer system for verifying a commercial transaction between a user with credit card data and a merchant, said computer system comprising:

a processing unit for processing data and code;

memory for storing said data and said code, said code including

a merchant communications module operative to facilitate a connection with said merchant for receiving a transaction approval request,

an account-holder communications module operative to facilitate a separate connection with an account-holder associated with said credit card data for said account-holder to verify said transaction approval request, and

an authorization module responsive to receipt of said transaction approval request and operative to transmit an approval to said merchant if said transaction approval request is verified, said authorization module being configurable to cooperate with said account-holder communication module for obtaining account-holder verification of said transaction approval request or to automatically verify said transaction approval request without obtaining verification from said account-holder, said authorization module including an interactive verification module operative to wait for said account-holder to initiate said connection with said account-holder communication module, any prior notification to said account-holder regarding said transaction being disabled.

106. A computer system for verifying a commercial transaction between a user with financier data and a retailer, said computer system comprising:

a processing unit for processing data and code;

memory for storing said data and said code, said code including

a financier communications module operative to facilitate a connection with a financier for receiving a verification request related to said commercial transaction,

an account-holder communications module operative to facilitate a connection with an account-holder associated with said financier data for said account-holder to verify said commercial transaction, and

an authorization module configurable to cooperate with said account-holder communication module for obtaining account-holder verification of said commercial transaction or to automatically verify said commercial transaction without obtaining verification from said account-holder, said authorization module being responsive to receipt of said verification

request and operative to transmit an approval to said financier if said commercial transaction is verified.

107. In a computer system, a method for verifying a commercial transaction between a user with credit card data and a merchant, said method comprising:

receiving a transaction approval request from said merchant;

electronically verifying said transaction approval request with an account-holder associated with said credit card data via a communication with said account-holder separate from said communication with said merchant, said electronic verification including disabling any notification to said account-holder and waiting for said account-holder to initiate communication with said computer system;

enabling the account-holder to disable the step of electronically verifying;

automatically verifying the transaction approval request, if the account-holder has disabled the step of electronically verifying; and

transmitting an approval to said merchant if said transaction approval request is verified.

108. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 107.

109. In a computer system, a method for verifying a commercial transaction between a user with credit card data and a merchant, said method comprising:

receiving a verification request associated with said commercial transaction from a financial institution that approves transactions between account-holders and merchants;

electronically verifying said associated commercial transaction with an account-holder associated with said credit card data;

enabling the user to enable and disable the electronically verifying step; and

transmitting indicia of verification to said financial institution if said associated commercial transaction is verified by said account-holder or if the electronically verifying step is disabled.

110. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 109.

111. A computer system according to claim 60, wherein the user is the account-holder.

112. A method according to claim 75, wherein the user is the account-holder.

113. A computer system according to claim 105, wherein the user is the account-holder.

114. A computer system according to Claim 60, wherein responsive to said verification indicator being in said second state said authorization module is operative to automatically verify all received transaction approval requests without obtaining verification from said account holder.

115. A method according to Claim 75, wherein verification with said account-holder is not required for approval of any transaction approval request when said verification function is disabled.

116. A computer-readable medium having code embodied therein for causing an electronic device to perform the method of Claim 115.

117. A computer system for verifying a commercial transaction between a user with credit card data and a merchant, said computer system comprising:

a processing unit for processing data and code; and

memory for storing said data and said code, said data and code including

a merchant communications module operative to facilitate a connection with said merchant for receiving a transaction approval request,

an account-holder communications module operative to facilitate a separate connection with an account-holder associated with said credit card data for said account-holder to verify said transaction approval request and to facilitate the switching of a verification indicator between at least a first state and a second state, and

an authorization module responsive to said verification indicator and operative to cooperate with said account-holder communication module for obtaining account-holder verification of said transaction approval request when said verification indicator is in said first state; said authorization module being further operative to forego verification by said account holder when said verification indicator is in said second state, said authorization module being responsive to receipt of said transaction approval request and operative to transmit an approval to said merchant if said transaction approval request is verified by said account holder or if said verification indicator is in said second state.

118. A computer system for verifying a commercial transaction between a user with credit card data and a merchant, said computer system comprising:

a processing unit for processing data and code; and

memory for storing said data and said code, said data and code including

a merchant communications module operative to facilitate a connection with said merchant for receiving a transaction approval request,

an account-holder communications module operative to facilitate a separate connection with an account-holder associated with said credit card data for said account-holder to verify said transaction approval request and to facilitate the switching of a verification indicator between at least a first state and a second state, wherein said first state enables a previously established verification requirement and switching said verification indicator to said second state disables said previously established verification requirement, and

an authorization module responsive to said verification indicator and operative to cooperate with said account-holder communication module for obtaining account-holder verification of said transaction approval request when said verification indicator is in said first state.

EVIDENCE APPENDIX

(37 C.F.R. § 41.37(c)(1)(ix))

None.

RELATED PROCEEDINGS APPENDIX

(37 C.F.R. § 41.37(c)(1)(x))

None.